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GENERAL ASSEMBLY
Forty-fifth session
Items 12, 92, 94, 103 and 112
of the preliminary list*
REPORT OF THE ECONOMIC AND SOCIAL COUNCIL
EFFECTIVE IMPLEMENTATION OF UNITED NATIONS
INSTRUMENTS ON HUMAN RIGHTS AND
EFFECTIVE FUNCTIONING OF BODIES
ESTABLISHED PURSUANT TO SUCH
INSTRUMENTS
ELIMINATION OF ALL FORMS OF RACIAL
DISCRIMINATION
CRIME PREVENTION AND CRIMINAL JUSTICE
TORTURE AND OTHER CRUEL, INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT

SECURITY COUNCIL
Forty-fifth year

Letter dated 12 April 1990 from the Chargé d'affaires a.i.
of the Permanent Mission of Israel to the United Nations
addressed to the Secretary-General

I have been instructed by my Government to draw your attention to the attached extract from Country Reports on Human Rights Practices for 1989, published by the Department of State of the United States of America, which contains information on the situation concerning human rights in Malaysia. I have underlined passages of special relevance.

In view of the importance of this information, I have the honour to request that this attached extract be issued as an official document of the General Assembly, under items 12, 92, 94, 103 and 112 of the preliminary list, and of the Security Council.

(Signed) Johanan BEIN
Ambassador
Acting Permanent Representative

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* A/45/50.

ANNEX

101st Congress
2d Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1989

REPORT

SUBMITTED TO THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

FEBRUARY 1990

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MALAYSIA

Malaysia has a parliamentary system of government based on free elections contested by several parties, almost all of which are racially based. Malaysia is a multiethnic society, with Malays comprising a little more than half of the population and the remainder consisting of Chinese (about 33 percent), Indians (about 10 percent), and several other minorities. The ruling National Front (composed of three major and several minor parties) has won a two-thirds or better majority in the federal Parliament in all general elections since 1957, but opposition parties are active and vocal participants in the political system, and they occasionally control governments at the state level. Malaysia is a federation of 13 states, with state governments retaining power over several important areas, including land use and religion.

From the late 1940's until recently, the defense forces were directed primarily at containing a major Communist insurgency that began in 1948 and peaked in the 1950's. The Government states that because of the insurgency that still smolders in a few border areas, the intercommunal rioting in which several hundred persons died following the 1969 national elections, , and the country's serious drug problem, classified by the Government as a threat to national security, internal security remains a concern. The Government cites all three factors as justification for laws allowing preventive detention, but human rights groups charge that they are primarily used to stifle dissent.

A strong free market economy, abundant natural resources, and a relatively small population have helped Malaysia become one of the most prosperous of the developing countries.

Detention without trial and restrictions on judicial review of detentions, as well as restrictions on freedom of association, and on freedom of the press, are the primary human rights concerns in Malaysia. In late 1987, the detention without trial of 106 persons under the Internal Security Act (ISA) became a major focus of attention. By June 1989, all those detainees had been released and restrictions on their movements and activities rescinded. Amendments to the ISA enacted by Parliament that same month, however, further restrict the judiciary's power to review detentions under the ISA, the Dangerous Drugs Act, and the Emergency Ordinance.

Restrictions on the independence of the Malaysian judiciary remain a key area of concern. Many legal and other observers see evidence that when hearing cases with political ramifications, the courts are increasingly reluctant to take positions which could be seen by the executive branch as challenging executive authority.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings by the Government or by any other political organization.

b. Disappearance

There was no evidence of abduction, secret arrests, or clandestine detention attributable to the Government or to nongovernmental or opposition forces. There have been reports that, in a number of cases, security authorities waited days after a detention before informing the detainee's family.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Allegations of cruel, inhuman, or degrading treatment or punishment are rare, although several Malaysian citizens who were detained by the Government in October 1987 claim that they were mistreated by security authorities, especially during the initial stage of their detention. Their allegations included charges of sleep deprivation, threats and verbal abuse, and, in at least one case, beating. After their release from ISA detention, some former detainees stated that while there was no torture as such, treatment of detainees by the authorities varied, with some receiving harsher treatment than others.

d. Arbitrary Arrest, Detention, or Exile

The Government can detain suspects without benefit of judicial review under three laws: the 1960 Internal Security Act (ISA), the Emergency (Essential Powers) Ordinance of 1969, and the Dangerous Drugs Act of 1985.

The 1960 ISA, patterned after legislation instituted by the British colonial administration during the Communist insurgency of the 1950's, is aimed at controlling internal subversion. It empowers the police to hold for up to 60 days any person who may act "in a manner prejudicial to the security of Malaysia." Further detention (in renewable 2-year segments) must be authorized by the Minister of Home Affairs. The Minister must inform detainees of the charges against them and give them the opportunity to protest those charges to an advisory board. The advisory board reviews each case at least every 6 months. Advisory board decisions and recommendations are not, however, binding on the Minister, are never publicized, and are often not shown to the detainee. A number of the ISA detainees have refused to participate in the review process under these circumstances.

The Malaysian Government does not publish statistics or make regular public statements on ISA detentions. Authoritative information on the number of detainees is not available. In March 1989, however, the Deputy Home Affairs Minister told Parliament that 70 persons were under ISA detention at that time. Prior to the ISA detentions of October 1987, the number of long-term ISA detainees had dropped from nearly 500 in 1981 to about 25. In October and November 1987, however, Malaysian authorities, citing a danger of serious racial strife, detained another 106 persons, including government and opposition members of Parliament, social critics, academics, environmentalists, and religious activists. However, none were charged in court for any unlawful activity. By June 1989, all of these detainees had been released and restrictions on their movements rescinded. In 1988 the Government detained 11 Malaysians from Sarawak under the ISA; all were released by July 1989. Twenty-three from two northern states also were arrested in 1988 under the ISA as arson suspects. A spokesman for the opposition Islamic Party

READEX FICHE

of Malaysia announced that several of those arrested were members of that party. The spokesman said the party would investigate to determine whether the arrests were political, without specifying when the determination would be made. Human rights observers claim that the detentions were unwarranted because the defendants could have been arrested and tried under criminal statutes proscribing arson.

In March 1988 the High Court ordered the release of a prominent lawyer and opposition leader detained under the ISA, on the grounds that his arrest was unlawful. Eight hours after his release he was rearrested under a new ISA detention order. In July 1988 and June 1989, Parliament amended the ISA to place additional limitations on judicial review of detentions. The 1988 amendments validate detention orders regardless of textual inaccuracies in place or fact, while the 1989 legislation restricts judicial review of government detention orders to procedural matters only. The Government defended the amendments by stating that court decisions should not be permitted to replace executive decisionmaking in national security matters. Opposition leaders and the Bar Council publicly protested the 1989 ISA amendments as a negation of the rule of law.

The Emergency (Essential Powers) Ordinance of 1969 stemmed from that year's intercommunal riots. The State of Emergency declared at that time has not been rescinded, although Parliament regained its legislative power in 1971. The Emergency Ordinance gives the Government the power to detain anyone "in the interests of the public safety or the defense of Malaysia." As under the ISA, detainees must be informed of the charges against them, and they can appeal to an advisory board. Since 1985 the Emergency Ordinance has been used in some serious criminal cases not related to narcotics.

The Dangerous Drugs (Special Preventive Measures) Act of 1985 was enacted by Parliament to give the Government specific power to detain suspected drug traffickers. Suspects can be held under this law for successive 2-year periods with periodic review by an advisory board. Unlike the ISA and Emergency Ordinance, in the case of the Dangerous Drugs Act the opinion of the advisory board is binding on the Minister. As of June 1989, there were about 1,200 drug suspects in detention under this statute. As with the other two security statutes, the Dangerous Drugs Act was amended in 1988 to validate detention orders with certain defects and, in 1989, to prohibit legal challenges to detention orders. Legal observers have voiced the same strong concerns about these amendments.

With regard to forced or compulsory labor, see Section 6.c.

e. Denial of Fair Public Trial

The right to a fair trial is seriously restricted in security-related matters where the ISA is invoked. Ordinary civil and criminal cases, and some security-related cases, are tried under a fair and open judicial system derived from British jurisprudence. Charges must be levied against a defendant within 24 hours of arrest, and police must decide within 14 days whether to bring the case to court. Defendants have the right to counsel, and lawyers are able to represent clients without penalty to themselves. Bail is available, and strict rules of evidence apply in court. Defendants may appeal lower court decisions to the federal courts and, in

criminal cases, may also appeal for clemency to the King or local state rulers, as appropriate.

Persons arrested and charged for firearms violations are normally charged under provisions of the Internal Security Act which carry a mandatory death sentence upon conviction. Other security-related crimes, whether or not capital crimes, can be tried under special procedures contained in the Essential (Security Cases) Regulations of 1975. The accused is allowed counsel but sometimes does not receive a statement of the evidence prior to the trial which is by a single judge without a jury; and witnesses may be examined in the absence of the accused. Admissible evidence includes hearsay and secondary evidence, testimony of children and spouses, self-incriminating statements to police, and information from seized records or communications. If the accused is found guilty, the judge must impose the maximum penalty. According to local legal sources, these special trial provisions are rarely, if ever, used.

The Malaysian judiciary has traditionally been regarded by the public and the legal community as committed to the rule of law. The judicial system has exhibited over the years an unusual degree of independence, not hesitating to rule against the Government in criminal, civil, or occasionally even major cases with political ramifications. An example of the latter was the High Court ruling in February 1988 that the dominant party in the Government coalition was illegally constituted.

However, in 1988 Parliament amended the Malaysian Constitution to delete the clause vesting judicial power in the courts and substitute a clause stating that the jurisdiction and power of the courts are "conferred by or under Federal law." Although the practical ramifications of this amendment remain unclear, some members of the legal community charge that it strips the judiciary of its constitutional basis of authority, making it wholly dependent upon specific legislation passed by Parliament.

In another development in 1988 affecting the judiciary, the Lord President of the Supreme Court was dismissed by the King on August 8 following the recommendation of a tribunal which heard the Government's charges against him. The charges included bias and prejudice in speeches critical of the Government and writing a letter to Malaysia's King raising objections to the Prime Minister's criticism of the judiciary, thereby creating misunderstanding between the Prime Minister and the hereditary rulers. Five Supreme Court Justices were suspended for their actions related to the case. A second tribunal appointed by the King ordered the immediate reinstatement of three of the Justices in October 1988, while the other two were dismissed from office. Most nongovernment observers believe the purpose of the dismissals was specifically to strengthen the Prime Minister's control of the judiciary.

The case against the previous Lord President continued to have ramifications in 1989. In March 1989, the Malaysian Bar Council filed a contempt of court motion against the current Lord President for his actions related to the dismissal of the previous Lord President. In April the Supreme Court rejected the Bar Council's contempt motion, and then in June agreed to consider a counter motion filed against the Bar Council Secretary by the Attorney General. The Government's contempt motion has not yet been heard. The Supreme Court's handling

of the Bar Council's motion is cited by legal observers as evidence that the 1988 confrontation between the judiciary and the executive branches is causing reluctance by the courts to take positions in politically sensitive cases challenging the Government.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

These rights are, generally, protected by law. Under the security legislation described above, however, the police may enter and search without warrant the homes of persons suspected of threatening national security and confiscate evidence. Under this provision, police have searched homes and offices, seized books and papers, and taken people into custody without a warrant.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Despite constitutional provisions for freedom of speech and press, there are some important limitations. For example, the Constitution provides that freedom of speech can be restricted by legislation "in the interest of security... (or) public order." Thus the Sedition Act Amendments of 1970 prohibit public comment on "sensitive" issues such as citizenship rights for non-Malays and the special position of Malays in society. Since 1970, however, the Government has brought only a few cases under the Sedition Act, and in the most recent incident in 1986 the defendant, the President of the Bar Council, was acquitted.

Press freedom is subject to important limitations under the Printing Presses and Publications Act of 1984, under which domestic and foreign publications must apply annually to the Government for a permit. In December 1987, Parliament amended this Act to make the publication of "malicious news" a punishable offense, to expand the Government's power to ban publications, and to prohibit court challenges to suspension or revocation of publication permits. An additional inhibiting factor is that the Government or the business arms of the leading political parties in the ruling coalition own almost all the major newspapers as well as all the radio and television stations.

At the time of the ISA detentions in October 1987, the Government revoked the publication permits of three newspapers. Although all three newspapers resumed publication in March 1988, the revocations and the legislative amendments described above have resulted in significant self-censorship by journalists and editors of the daily newspapers. Nevertheless, opposition parties, social action groups, and a number of private publications regularly provide detailed coverage of opposition political activities and print viewpoints strongly critical of the ruling coalition and its policies. A wide range of information is available to the Malaysian public in newspapers and magazines published in all of the country's four major languages, and major international and regional news publications circulate freely.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the rights of freedom of peaceful assembly and association, but there are significant

restrictions. Those rights can be limited in the interest of security and public order, and the 1967 Police Act requires police permits for all public assemblies. In the aftermath of the intercommunal riots in 1969, the Government banned political rallies altogether. While the ban on political rallies has not been formally rescinded, both Government and opposition parties have been able to hold what they refer to as "discussion sessions" for electioneering during political campaigns. In the eight national and state special elections since August 1988, government and opposition candidates campaigned openly and with minimal police interference despite the existence of the Police Act and other restrictions; there were no public complaints concerning the enforcement of the Police Act. Some opposition politicians complained privately, however, that police issuance of permits for campaign events has not been as timely as they would have liked.

Other statutes limit the right of association, such as the Societies Act of 1966, under which the Government can refuse registration to organizations which comment unfavorably on political or public issues. The threat of deregistration under the Societies Act tends to inhibit political activism by public or special interest organizations, but it does not suppress such activity entirely. Another law affecting freedom of association is the Universities and University Colleges Act, which mandates government approval for student associations and prohibits such associations from engaging in political activity. In November 1988, police arrested 11 persons in Lake Garden Park who were participating in a peaceful candlelight protest against the detentions that took place in late 1987. Charged with illegal assembly under the Police Act, the charges were later dropped.

For a discussion of freedom of association as it applies to labor unions, see Section 6.a.

c. Freedom of Religion

The official religion of Malaysia is Islam, and ethnic Malays are legally bound in some civil matters, e.g., family relations and diet, by Islamic religious laws administered by state authorities. An Islamic religious establishment is supported with government funds, and it is official policy to "infuse Islamic values" into the administration of Malaysia. However, the Constitution provides for freedom of religion, and the Government has refused to accede to pressures for the imposition of Islamic religious law beyond the Muslim community. Religious minorities, which include large Hindu, Buddhist, Sikh, and Christian communities, practice their faith with minimal interference by the Government.

There are persistent allegations, however, that some state governments are slow in approving building permits for non-Muslim places of worship. The Government has limited the circulation of a popular translation of the Bible in Bahasa Malaysia, and some states restrict the use of Christian terms in Bahasa Malaysia. Conversion to religions other than Islam is permitted but not encouraged; proselytizing of Muslims is, and has long been, proscribed by law in some states and strongly discouraged in other parts of the country. Government attitudes on religious questions were evident in the October 1987 ISA detentions when several Muslim and Christian teachers and activists were detained.

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In a development affecting the right of parents to teach religion to their children, the state of Selangor passed a bill in August 1989 which allows minors to convert to Islam without parental approval. Although this legislation has yet to be implemented and could be overturned at a later date, its passage in the Selangor State Assemoly has caused some consternation among Malaysia's non-Muslim minorities.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government does not generally restrict the right of individuals to travel within the country and live and work where they please, but it did place significant restrictions on the movement and activities of some ISA detainees after their release from detention. The restrictions on all former October 1987 ISA detainees were rescinded by June 1989. There are also no goverrment restrictions on emigration. Since there are no known Malaysian refugees in other countries, there is no problem of repatriation. There have been some cases of Malaysian citizens being denied passports on security grounds, but Malaysians are generally free to travel abroad. There are restrictions on travel by Malaysians to Israel, South Africa, Cuba, China, Vietnam, and North Korea.

Malaysia has provided first asylum to more than 250,000 Vietnamese refugees since 1975. It has cooperated closely with international organizations and resettlement countries in facilitating the eventual movement of the refugees to third countries.

In June 1989, Malaysia chaired the second International Conference on Indochinese Refugees (ICIR). At the Conference, the resettlement countries and the countries of first asylum agreed to institute a comprehensive plan of action for granting asylum and resettlement to Indochinese asylum seekers. Boat people arriving in Malaysia after March 14, 1989 would be screened; only those determined to be genuine refugees would be eligible for first asylum and resettlement. Malaysia began to screen boat people on August 28. No determinations regarding refugee status had been made as of mid-November.

The yearly arrival rate for Vietnamese boat people to Malaysia remained high in comparison to the mid-80's: about 17,000 arrived during the year ending September 30, 1989. Resettlement did not keep pace with arrivals, and the camp population grew to 21,000, resulting in severe overcrowding at the principal camp of Pulau Bidong and concerns among relief workers for the asylum seekers' health. Domestic opposition to the Vietnamese presence prevented the expansion of camp facilities. The Government did not follow through on its 1988 announcement that it would close Pulau Bidong within the year.

Despite the commitments which it made at the ICIR, the Government began intermittently to deny first asylum to boat people beginning in late May, claiming it could not accept new boat arrivals indefinitely without some assurance all would eventually be removed from Malaysia. According to the United Nations High Commissioner for Refugees (UNHCR), a total of 2,470 persons had been pushed off through the end of October 1989. In most cases the Malaysians repaired and reprovisioned the boats before returning them to sea. All such boats reaching Indonesia have been permitted to land. Nevertheless, one death reportedly occurred when a boat being towed to sea

overturned, and four persons (including a pregnant woman) died of dehydration as a consequence of being pushed off.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Malaysia's parliamentary system is based on the British model. The Prime Minister and Cabinet are responsible to Parliament, from which they are drawn. National parliamentary elections, which the Constitution requires at least every 5 years, have been held regularly since independence in 1957 and have included opposition candidates actively contesting parliamentary seats. In addition, there are regular state and local multiparty elections. Most observers consider Malaysian elections to be generally free and fair, with votes cast secretly and recorded accurately. Opposition candidates won several hotly contested byelections in August 1988 and June 1989. Nevertheless, in several byelections in the last year, there were allegations that government supporters attempted to intimidate voters.

Through the United Malays National Organization (UMNO), Malays dominate the ruling National Front coalition of ethnic-based parties which has controlled Parliament since independence. Non-Malays fill a number of cabinet posts. In August 1986, the National Front won 148 of the 177 seats in the House of Representatives. Although the opposition regularly criticizes government policies within and outside Parliament, government views generally prevail. Since 1957 there has been a peaceful transfer of power in the office of Prime Minister three times.

Opposition parties, such as the Islamic Party of Malaysia (PAS), have occasionally gained control of state governments. Non-Malay parties have also controlled state governments; for example, the ruling party in the important state of Penang is largely Chinese-based, and in Sabah a predominantly Christian party is currently in power.

A new Malay political party called Semangat 46 (Spirit of 46) was registered in July 1989. This party is dominated by former UMNO leaders who challenged Prime Minister Mahathir for the UMNO leadership in 1987 and lost. There has also been some movement toward an opposition coalition led by Semangat 46 to challenge the ruling coalition in the next general election which must be held before October 1991. The new party and the informal coalition have actively campaigned in a series of national and state byelections since August 1988, winning twice and losing the other six times.

Eleven Members of Parliament, 10 from opposition parties and 1 from the government coalition, were included among the persons detained in October and November 1987. After their release, all regained their parliamentary seats and party leadership positions. Opposition leader and former detainee Lim Kit Siang continues to criticize government policy and has also directly challenged the Government in parliamentary sessions since his release.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government rejects criticism of its human rights record by international human rights organizations and foreign governments. Prime Minister Mahathir, in a speech at the

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Non-Aligned Movement summit in September 1989, stated that developing countries cannot practice the Western liberal "brand of democracy and human rights" to the detriment of meeting basic human needs, such as food, shelter, and schools. Malaysian officials criticize local groups for "collaborating" with international human rights organizations in their studies of the human rights situation. Nevertheless, representatives of international human rights organizations have visited and traveled in Malaysia and have been able to meet with some relevant government officials. In 1989 representatives of the Committee on Human Rights of the New York City bar met with the Attorney General and other government officials. In 1988 the Government permitted delegations from the International Committee of the Red Cross and the Human Rights Commission of the International Parliamentary Union to meet with ISA detainees as well as with government officials. Foreign government officials have met in Malaysia with their Malaysian counterparts to discuss human rights.

In August 1989, a group of prominent Malaysians, including two former prime ministers, applied to the Registrar of Societies to establish a national human rights society. The Registrar had not by year's end ruled on the application, although in December 1988 the Deputy Prime Minister announced that the Government would not object. In addition, a number of organizations, including the Bar Council and various public interest groups, devote some time to human rights activities. The Government tolerates their activities but rarely responds to their inquiries or occasional press statements. The Government has not acceded to any of the international covenants on human rights, generally maintaining that such issues are internal matters.

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status

The Government implements on an extensive scale programs designed to boost the economic position of the ethnic Malay majority which remains poorer, on average, than other Malaysians despite its political dominance. These Government programs and policies limit, in varying degrees, opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of new homesteads.

The question of the rights of indigenous peoples in Malaysia received increasing attention in 1989. The focus of this attention has been the impact of logging on the indigenous peoples in the East Malaysian state of Sarawak. Between November 1988 and January 1989, 128 members of the semi-nomadic Penan group in Sarawak were arrested and charged with illegally blockading logging roads and bridges. Another 117 Penans were arrested under the State Forestry Ordinance in September for similarly blockading logging roads. While the Penan demonstrators have not yet been brought to trial, the prosecution dropped similar charges against another indigenous group--42 Kayans--in April.

There are no laws or regulations restricting the political and economic rights of women. The position of women in society is conditioned by the cultural and religious traditions of the country's major ethnic groups. With a general resurgence of Islamic piety among Malays, many Malay women have in recent years tended toward close conformity with Koranic stipulations on women's roles. Women's groups are active both within the

governmental and private sectors. Two important umbrella organizations for women's rights are the National Advisory Council for the Integration of Women in Development in the Prime Minister's Department and the National Council of Women's Organizations.

Violence against women, including wife beating, has resulted in a number of steps to deal with the problem. According to government statistics, reported domestic violence cases increased from 279 in 1982 to 900 in 1988. There are currently no specific laws on domestic violence. Cases of wife beating or child abuse are tried under normal assault provisions of the Criminal Code, which carry penalties of 3 months to 1 year in prison and/or fines up to $750. A women's aid organization runs shelters for battered wives, and several women's groups led a succesful effort in April to toughen the laws against rape, mandating jail sentences of at least 5 years (maximum of 20 years) and allowing the imposition of fines and/or whipping. Women's rights organizations also began promoting new legislation to curb domestic violence against women and children; an interagency group coordinated by the Welfare ministry was formed to draft the legislation.

Section 6 Worker Rights

a. The Right of Association

The Trade Unions Act of 1959 and the Industrial Relations Act of 1967 govern the right of workers to engage in trade union activity. Unions may organize workplaces, bargain collectively with an employer, form federations, and join international organizations. The Industrial Relations Act specifically prohibits any person from interfering with, restraining, or coercing a worker in the exercise of the right to form or participate in the lawful activities of a trade union.

The Trade Unions Act, which is administered by the Director General of Trade Unions (formerly the Registrar of Trade Unions), sets rules for the organization of unions, their recognition at the workplace, the content of their constitutions, election of their officers, and their financial reporting requirements. The Act's definition of a trade union restricts it to representing workers in a "particular trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to guidelines of the Committee on Freedom of Association of the International Labor Organization (ILO).

The Director General of Trade Unions may refuse to register a trade union on a variety of grounds. He also has the power, under certain circumstances, to withdraw the registration of a trade union. A trade union for which registration has been refused, withdrawn or canceled is considered an unlawful association.

Malaysia's electronic components industry, dominated by American and Japanese firms, has been the focus of unsuccessful union organizing efforts since the late 1970's. The Government has used its various powers to prevent the formation of a union in the industry other than strictly "in house" unions. In August 1989, the Director General of Trade Unions refused to register the National Electronics Workers Union on the grounds that it did not meet the definition of a "trade union" in the Trade Unions Act because its members work

in the electrical and electronics industries, which the Labor Minister has determined are different industries. Union leaders have stated that they seek to represent only workers in the elctronics industry. The Government has been repeatedly criticized by the ILO for continued failure to comply with ILO Convention 98 (right to organize and to bargain collectively).

Some critics of the Government's policy toward labor unions, notably the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and Asia Watch, believe the arrest of V. David under the ISA in the government crackdown late in 1987 (see Section 1.d. above) demonstrated labor leaders' vulnerability to government pressures, which, critics assert, inhibit their carrying out legitimate trade union activities. Mr. David has declared publicly that questioning during his detention related only peripherally to his role in the Malaysian Trades Union Congress (MTUC) and the Transport Workers' Union (TWU). He continues as MTUC Secretary General, campaigned successfully for reelection to that position in December 1988, and has been allowed to travel abroad to trade union meetings.

Federations of trade unions may cover only a single trade or industry or similar trades or industries. The only labor federations currently registered are one for public servants, one for teachers, and one for state-based textile and garment workers' unions. The MTUC, the main labor body, is registered as a society under the Societies Act (rather than the Trade Unions Act). Previous MTUC efforts to register as a trade union federation under the Trade Unions Act were turned down because of its broad membership. In November 1988, however, Parliament approved legislation granting the MTUC the status and rights enjoyed by Malaysian trade unions, although it remains a society.

As of December 1988, there were 392 individual unions in Malaysia with over 616,626 members (10.4 percent of total employment).

Unions are independent both of the Government and of the political parties. While unions are not permitted to engage in political activity, individual trade union leaders have served in Parliament (V. David, the MTUC Secretary General, is currently a Member of Parliament for an opposition party) and individual union members belong to political parties. Malaysian trade unions are free to associate with the appropriate international trade secretariats, and a number of Malaysian labor leaders play major roles in international labor affairs. The MTUC is affiliated with the International Confederation of Free Trade Unions (ICFTU). The Secretary General of the National Union of Plantation Workers is President of the ICFTU, and the MTUC Secretary General has actively participated in the ILO governing body.

While strikes are legal and do occasionally occur, critics claim that this right in practice is severely restricted. The Industrial Relations Act of 1967 requires the parties to notify the Ministry of Labor that a dispute exists before any industrial action may be taken. If government conciliation fails to achieve a settlement, the Minister has the power to refer the dispute to the Industrial Court, which effectively becomes compulsory arbitration. A strike is prohibited while the dispute is before the Industrial Court, and an award made by the Industrial Court cannot be appealed. Industrial Court

awards are the exception rather than the rule, h er, representing only about 18.5 percent of all coll .ve agreements referred to the Industrial Court in 19 . The remaining agreements were reached through bargain g between management and labor.

b. The Right to Organize and Bargain Collectively

Collective bargaining is the norm in Malaysian industries where workers are organized. Malaysia's system of conciliation and arbitration seeks to promote negotiation and settlement of issues without strikes.

In a complaint to the ILO, the MTUC alleged that the 1980 amendments contain prohibitive and oppressive antiunion provisions which erode the basic rights of workers, restrict union activities, and result in government and employer interference in the internal administration of unions. In 1983 the ILO urged the Malaysian Government to amend these laws further to bring them into conformity with the ILO Convention on the right to organize and to bargain collectively. Despite subsequent amendments, the MTUC still believes the labor law to be deficient by ILO standards. Many union leaders also believe that creation of the Industrial Court to handle industrial disputes further weakened their collective bargaining rights.

Labor standards in free trade zones are the same as those in the rest of Malaysia. Workers at many companies located in the free trade zones are unionized, especially in the textile and electrical products plants. Enterprises granted "pioneer" status (whether or not located in a free trade zone) are protected from union demands for terms of employment exceeding those specified in the Employment Act of 1955 during the period of their pioneer status (normally 5 years). The restriction does not apply to wages or benefits not covered by the Employment Act (see Section 6.e. below).

c. Prohibition of Forced or Compulsory Labor

Malaysia is a party to ILO Convention 105 prohibiting forced or compulsory labor and it has effective legal sanctions against such abuses. The ILO has criticized Malaysia for requiring prisoners and ISA detainees to work. Malaysia defends the practice as part of its prisoner rehabilitation program.

d. Minimum Age for Employment of Children

Employment of children is covered by the Children and Young Persons (Employment) Act of 1966, which stipulates that no child under the age of 14 may be engaged in any employment except light work in a family enterprise, in public entertainment, work performed for the Government in a school or training institution, or employment as an approved apprentice. It is illegal for children to work more than 6 hours per day, more than 6 days per week, or at night. The law is effectively enforced through periodic inspections by the Ministry of Labor.

e. Acceptable Conditions of Work

Malaysian wages are relatively high for its level of industrialization and higher than in all neighboring countries except Singapore. The Employment Act of 1955 sets working

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hours not to exceed 8 hours per day or 44 hours per week (5 1/2 days), sets overtime rates for hours in excess of those, and mandates public holidays, annual leave, sick leave, and maternity allowances for workers. Most such provisions are at least on a par with standards in industrialized countries. Minimum standards of occupational health and safety are set by law and enforced by a unit of the Ministry of Labor. Severance benefits are provided under the Employment (Termination and Lay-off Benefits) Regulations of 1980. The Employees Provident Fund (EPF) Ordinance of 1951 requires employers and employees to contribute to a fully funded retirement program. Some 90 percent of workers are covered by either the EPF or the Government's own pension plan for public servants. The Workmen's Compensation Act of 1952, and the Social Security Act provide disability and workman's compensation benefits.

There is no national minimum wage legislation, but certain classes of workers are covered by minimum wage laws: retail clerks, hotel and restaurant employees, cinema workers, and a few others, totaling approximately 140,000 workers. By local standards, and taking into account various worker benefits received by most workers, Malaysian wages provide a decent standard of living for workers and their families. The effective minimum wage for unskilled labor in the urban areas is about $90 per month. Plantation work is increasingly being done by contract workers, including numerous illegal immigrants from Indonesia, in part due to a shortage of Malaysians interested in such work. Working conditions for contract workers often are significantly below those of direct hire plantation workers, many of whom belong to the National Union of Plantation Workers. Additionally, many of the immigrant workers, particularly the illegal ones, may not have access to Malaysia's system of labor adjudication. In 1989 the Malaysian Government, at least in part to prevent the exploitation of these workers, moved to legalize large numbers of illegal immigrant workers, granting 290,000 work passes to Indonesian plantation workers in August.

UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/21249
16 April 1990
ENGLISH
ORIGINAL: SPANISH

LETTER DATED 11 APRIL 1990 FROM THE PERMANENT REPRESENTATIVE OF CUBA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

Further to the letter which His Excellency Mr. Isidoro Malmierca, Minister for Foreign Affairs of the Republic of Cuba, addressed to the President of the Security Council on 27 March 1990, I have the honour to transmit herewith the decision by the International Frequency Registration Board of the International Telecommunication Union concerning illegal television broadcasts beamed to the Republic of Cuba by the United States Government.

I request you to arrange for this letter and its annex to be circulated as a document of the Security Council.

(Signed) Ricardo ALARCON DE QUESADA
Ambassador
Permanent Representative

Annex

[Original: English]

Letter from the International Frequency Registration Board addressed to the United States Government

Subject: Objections raised by the Administration of Cuba to the proposed television broadcasting directed to Cuba

1. The Board sent a letter dated 12 January 1990 to your Administration enclosing a copy of a letter from the Cuban Minister of Communication requesting additional technical information together with any comments that you might wish to make.

On 23 February 1990, the Board sent a reminder telefax indicating "it is essential for the Board to be informed of your views before it can complete its study of the matter". The Board did not receive any response to either of these communications, therefore, the Board had to proceed without any comments from your Administration. Subsequently, on 27 March 1990, the Board received from your Administration a notice for the recording and registration of frequencies (sound and vision) for a television station at Cudjoe Key, Florida with an effective antenna height of 3,050 metres and effective radiated power of 45.2 DBW and 35.2 DBW for the vision and sound carriers respectively. The main direction of radiation is given as 207 degrees azimuth.

2. The Board is of the view that the establishment of this service with the use of such a high effective antenna height cannot be considered as efficient use of the radio spectrum in an area which includes other countries.

3. It is to be recalled that the radio regulations are annexed to the ITU Convention (Nairobi 1982) which is an international treaty in which one of the basic provisions of the Convention, its preamble, states "... with the object of facilitating peaceful relations, international cooperation ..."

4. The establishment of this broadcasting station, considering its location, relative power, high antenna height, and the given antenna directivity, is in the view of the Board not in compliance with the intent and spirit of No. 2666 of the radio regulations (which is to limit broadcasting in these bands to national service of a good quality within the frontiers of the country concerned). Earlier consideration by the Board of the provision have been based on the view that it is for the administrations concerned to comply with the limitations imposed, recognizing that the first clause "in principle" may, in practice, permit certain exceptions to the full compliance with this provision. The establishment of a TV station with these notified parameters cannot be considered as an exception provided for in No. 2666, therefore, the Board concludes that the operation of this station is in contravention of No. 2666 of the radio regulations. Consequently, the Board requests your Administration to modify the technical characteristics of this station so that it is in general, in conformity with No. 2666.

5. The Board has now received from the Administration of Cuba a complaint of harmful interference. Full details of the complaint are attached, you will be aware that the Administration of Cuba is operating a station CD-DE La Habana with an assigned frequency of 213.0 MHZ which is recorded in the MIFR with a 2C date of 22 June 1989 (Notice received 12-7-89) the hours of operation are 0000-2400.

6. Your attention is drawn to RR 1943 and or provision No. 158 of the ITU Convention (Nairobi 1982) and your prompt action in eliminating this harmful interference is requested.

7. Your early response would be appreciated.

Regards,
Chairman IFRB. IFRBCOM.

Enclosure

The data concerning interfering station are as follows:

Frequencies of emission: 211.250 MHZ and 215 MHZ

Time (local) 0145 hrs

Class of emission: BC (Television)

Characteristics of the affected transmitting station:

Assigned frequency 213.0 MHZ

Class of emission: BC

Location: Alamar, Ciudad Havana y Jaca, Matanzas.

These emissions infringe the basic provisions of No. 158 of the Convention as well as those set out in Nos. 340, 342 and 2666 of the radio regulations.

They also infringe the provisions of articles 18 and 19 of the regulations.

UNITED
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Security Council

Distr.
GENERAL

S/21250
16 April 1990
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 16 APRIL 1990 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to inform you that recent violations of the cease-fire by the Iranian party have been numerous and of a particularly disturbing nature. These violations have consisted of shots fired on our units particularly in the southern sector. The following violations have taken place:

On 29 March 1990, at 1755 hours, the Iranian party opened fire, from the eastern bank of the Shatt al-Arab, on a guard post situated at co-ordinates 303591 in the sector of our VII army corps unit. The soldier on duty, Mr. Rahim Abd Jasim, was seriously wounded in the head and had to be taken to Basra military hospital.

On 5 April 1990, at 1120 hours, the Iranians opened fire once on military positions situated on our embankment at co-ordinates 365589, wounding Sergeant Muhsin Ali Salih, who was cutting a thick clump of reeds in front of his position, in the leg (left thigh). His wound is of medium severity.

On 7 April 1990, at 1000 hours, the Iranians fired several RBG 7 rockets at three of our civilian fishing boats situated north of Umm al-Rasas Island, setting adrift these boats, which were carrying six persons younger than 16 years of age. One of them died after falling into the Shatt al-Arab. The others were able to reach the West bank of the Shatt (only one of them was wounded).

In drawing attention to these very serious violations of the cease-fire by the Iranian party, which must accept full responsibility for them, we request that you draw the attention of Iran to the seriousness of these violations and warn that country about the consequences that might result from further such provocative acts, which endanger the cease-fire and impede the establishment of a climate favouring the search for peace. If the Iranian party continues these serious violations, Iraq reserves the right to take all the measures that it deems appropriate in order to deal with that situation.

I should be grateful if you would have the text of this letter distributed as a document of the Security Council.

(Signed) Abdul Amir AL-ANBARI
Ambassador
Permanent Representative

UNITED
NATIONS

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Security Council

Distr.
GENERAL

S/21251
17 April 1990
ENGLISH
ORIGINAL: ARABIC/CHINESE/ENGLISH/
FRENCH/RUSSIAN/SPANISH

REPORT OF THE COMMITTEE ON THE ADMISSION OF NEW MEMBERS CONCERNING THE APPLICATION OF THE REPUBLIC OF NAMIBIA FOR ADMISSION TO MEMBERSHIP IN THE UNITED NATIONS

1. At its 2917th meeting, on 17 April 1990, the Security Council had before it the application of the Republic of Namibia (S/21241) for admission to membership in the United Nations. In accordance with rule 59 of the provisional rules of procedure of the Security Council and in the absence of a proposal to the contrary, the President of the Council referred the application to the Committee on the Admission of New Members for examination and report. The Council decided to waive the time-limit for reporting set out in rule 59.

2. At its 72nd meeting, on 17 April 1990, the Committee considered the application of the Republic of Namibia and unanimously decided to recommend to the Security Council that it be admitted to membership in the United Nations.

3. Accordingly, the Committee recommends to the Security Council the adoption of the following draft resolution:

The Security Council,

Having examined the application of the Republic of Namibia for admission to the United Nations (S/21241),

Recommends to the General Assembly that the Republic of Namibia be admitted to membership in the United Nations.

4. At the same meeting, the Committee decided to propose to the Security Council that it request the inclusion of an item entitled "Admission of new Members to the United Nations" in the supplementary list of items for the agenda of the eighteenth special session of the General Assembly.

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UNITED
NATIONS

General Assembly Security Council

Distr.
GENERAL

A/45/219
S/21252
18 April 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Items 35, 51, 57 and 58 of the
preliminary list*
THE SITUATION IN THE MIDDLE EAST
ESTABLISHMENT OF A NUCLEAR-WEAPON-FREE
ZONE IN THE REGION OF THE MIDDLE EAST
CHEMICAL AND BACTERIOLOGICAL (BIOLOGICAL)
WEAPONS
GENERAL AND COMPLETE DISARMAMENT

SECURITY COUNCIL
Forty-fifth year

Letter dated 16 April 1990 from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter addressed to you from Dr. Ahmed Esmat Abdel Meguid, Deputy Prime Minister and Minister of Foreign Affairs of Egypt, concerning the establishment of a zone free from weapons of mass destruction in the Middle East and summarizing President Hosni Mubarak's statement in this regard.

I kindly request that the letter be distributed as a document of the General Assembly, under items 35, 51, 57 and 58 of the preliminary list, and of the Security Council.

(Signed) Amre MOUSSA
Ambassador
Permanent Representative

* A/45/50.

ANNEX

Letter from the Deputy Prime Minister and Minister of Foreign Affairs of Egypt addressed to the Secretary-General

The Middle East, as you are well aware, continues to be a highly volatile conflict-torn region. Even in these times, when a rising tide of peace seems to be emerging in different regions of the world, as you so succinctly remarked in your report to the General Assembly at its forty-fourth session on the work of the United Nations (A/44/1), "the situation of the Middle East remains a source of profound and intense concern ...".

Recent developments in the region have further underscored the importance and urgency of safeguarding the Middle East from the ominous implications associated with nuclear weapons and other weapons of mass destruction.

Egypt has, for over 15 years, called for the establishment of a nuclear-weapon-free zone in the Middle East. This position emanated from our unwavering commitment to nuclear disarmament, as well as nuclear weapons non-proliferation, and our deep conviction that the introduction of nuclear weapons into the Middle East would have devastating consequences on the prospects for stability and security in the region, and for the maintenance of international peace and security in general.

At the forty-third session of the General Assembly, the international community once again reiterated its support for the establishment of a nuclear-weapon-free zone in the Middle East. In its resolution 43/65 of 7 December 1988, the General Assembly adopted without a vote, inter alia, highlighted certain measures and steps to be considered by States of the region pending the establishment of such a zone, foremost amongst which were adherence to the Treaty on the Non-Proliferation of Nuclear Weapons and the application of International Atomic Energy Agency (IAEA) safeguards to the nuclear facilities in the States of the region.

It is worthy of note that Egypt and the other Arab States that have significant nuclear programmes have undertaken these measures. They have met the standard, universally acknowledged to be a legally binding determination, not to acquire nuclear weapons, as well as the verification procedures imperative to assure compliance. Now it is of paramount importance that all States of the region adhere to the said treaty, and accept the application of full IAEA safeguards to their nuclear facilities.

Egypt has also taken an equally forthcoming position and active role in disarmament efforts relating to other weapons of mass destruction, including in particular chemical weapons. It is Egypt's considered opinion that chemical weapons should be dealt with in a comprehensive and global context involving all types of weapons of mass destruction, whether nuclear, chemical or biological, in order to ensure international and regional security.

President Hosni Mubarak, on 8 April 1990, categorically declared Egypt's support for ensuring that the Middle East become a zone free from all types of weapons of mass destruction. President Mubarak emphasized the following:

(1) All weapons of mass destruction, without exception, should be prohibited in the Middle East, i.e. nuclear, chemical, biological, etc.

(2) All States of the region, without exception, should make equal and reciprocal commitments in this regard.

(3) Verification measures and modalities should be established to ascertain full compliance by all States of the region with the full scope of the prohibitions without exception.

Egypt shall continue to work with States in the region, and beyond, towards declaring the Middle East a zone free from all weapons of mass destruction, and the establishment of the requisite international verification measures, applicable to all the States of the region on an equal basis. It is our sincere hope that the other States of the region will be equally forthcoming in this regard, as we strive to enhance the prospects for a just, lasting peace in the Middle East.

UNITED
NATIONS

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General Assembly Security Council

Distr.
GENERAL

A/45/220
S/21253
18 April 1990
ENGLISH
ORIGINAL: ENGLISH AND FRENCH

GENERAL ASSEMBLY
Forty-fifth session
Item 32 of the preliminary list*
THE SITUATION IN KAMPUCHEA

SECURITY COUNCIL
Forty-fifth year

Letter dated 18 April 1990 from the Permanent Representative of Cambodia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith, for your information, a declaration dated 14 April 1990 by Mr. Khieu Samphan, President of the Democratic Kampuchea Party and Vice-President of Cambodia in charge of Foreign Affairs, condemning the Vietnamese aggressors and their lackeys for making an attempt on the life of His Royal Highness Samdech Norodom Sihanouk, President of Cambodia.

I would be very grateful if the declaration could be distributed as an official document of the General Assembly, under the item 32 of the preliminary list, and of the Security Council.

(Signed) THIOUNN Prasith
Permanent Representative

* A/45/50.

ANNEX

DECLARATION BY MR. KHIEU SAMPHAN PRESIDENT OF THE DEMOCRATIC KAMPUCHEA PARTY AND VICE-PRESIDENT OF CAMBODIA IN CHARGE OF FOREIGN AFFAIRS CONDEMNING THE VIETNAMESE AGGRESSORS AND THEIR LACKEYS FOR MAKING AN ATTEMPT ON THE LIFE OF HIS ROYAL HIGHNESS SAMDECH NORODOM SIHANOUK, PRESIDENT OF CAMBODIA

- 14 April 1990 -

On 11 April 1990, the Vietnamese aggressors and their lackeys fired heavy artillery shells at the Residence of His Royal Highness Samdech NORODOM SIHANOUK, President of Cambodia and Leader of the Cambodian National Resistance, located at Sereipheap village, in the liberated zone of Cambodia.

This criminal attempt of the Vietnamese aggressors and their lackeys was perpetrated at a time when His Royal Highness Samdech NORODOM SIHANOUK, President of Cambodia and Leader of the Cambodian National Resistance has just proposed a meeting of the four Cambodian factions, and taken new initiatives with a view to bringing about, as soon as possible, a political settlement of the so-called Cambodian problem to put an end to the Vietnamese aggression war. This criminal act was committed at a time when the Democratic Kampuchea Party, on its part, has just made a declaration fully endorsing the 16-point principles set forth in the summary of conclusions adopted by the five Permanent Members of the United Nations Security Council in Paris on 16 January 1990.

By way of reacting to these peaceful initiatives, the Vietnamese aggressors and their lackeys have resorted to this odious and criminal act, using their cannon-balls.

This attempt of the Vietnamese authorities and their lackeys aims at covering up their grave defeat in Cambodia in all fields, military, political and structural which are nearing total collapse. Their currency, the riel, has devaluated to the point of becoming a simple piece of paper. At present, the Vietnamese aggressors and their lackeys are driven to an impass. This is the reason why they have made an attempt on the life of His Royal Highness Samdech NORODOM SIHANOUK, President of Cambodia and Leader of the

Cambodian National Resistance, whose important role in the political settlement of the so-called problem of Cambodia has been accepted by the Cambodian people and the international community as a whole.

On behalf of all combatants and cadres of the Democratic Kampuchea Party, one of the three components of the Cambodian National Resistance, and in my capacity as member of the National Government of Cambodia, I condemn, with an utmost indignation, this criminal act of the Vietnamese aggressors and their lackeys. We declare most solemnly to continue to support the patriotic activities of His Royal Highness Samdech NORODOM SIHANOUK, President of Cambodia and Leader of the Cambodian National Resistance. We also stress our determination to continue our cooperation with the Sihanoukian National Army (ANS) and with all other patriotic forces as well as with all our compatriots living inside Cambodia and abroad with a view to intensifying our activities against the Vietnamese aggressors and their lackeys in all fields, military, political and diplomatic, and that until the Vietnamese aggressors accept to put an end by political means their aggression war by withdrawing all their forces from Cambodia under an effective control and verification of the United Nations and to respect the sacred right of the Cambodian people to determine freely their destiny without any foreign interference.

UNITED
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General Assembly Security Council

Distr.
GENERAL

A/45/221
S/21254
18 April 1990

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Forty-fifth session
Items 92, 103, 109 and 113
of the preliminary list*
EFFECTIVE IMPLEMENTATION OF
UNITED NATIONS INSTRUMENTS ON
HUMAN RIGHTS AND EFFECTIVE
FUNCTIONING OF BODIES ESTABLISHED
PURSUANT TO SUCH INSTRUMENTS
CRIME PREVENTION AND CRIMINAL
JUSTICE
ELIMINATION OF ALL FORMS OF
RELIGIOUS INTOLERANCE
ENHANCING THE EFFECTIVENESS OF THE
PRINCIPLE OF PERIODIC AND GENUINE
ELECTIONS

SECURITY COUNCIL
Forty-fifth year

Letter dated 13 April 1990 from the Chargé d'affaires a.i.
of the Permanent Mis ion of Israel to the United Nations
addressed to the Secretary-General

I have been instructed by my Government to draw your attention to the attached extract from Country Reports on Human Rights Practices For 1989, published by the Department of State of the United States of America, which contains information on the situation concerning human rights in Laos. I have underlined passages of special relevance (see annex).

In view of the importance of this information, I have the honour to request that the present letter and the attached extract be issued as an official document of the General Assembly, under items 92, 103, 109 and 113 of the preliminary list, and of the Security Council.

(Signed) Johanan BEIN
Ambassador
Acting Permanent Representative

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* A/45/50.

ANNEX*

101st Congress
2d Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1989

REPORT

SUBMITTED TO THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

FEBRUARY 1990

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* Underlining has been added by the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations.

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LAOS

The Lao People's Democratic Republic (LPDR) is a one-party, Communist state. The Lao People's Revolutionary Party (LPRP) is the source of all political authority in the country, and the party's leadership imposes broad and arbitrary controls on the population of approximately 3.9 million people.

The LPRP came to power in 1975 after a protracted civil war, during which it received strong support from North Vietnam. Vietnam continues to exert considerable influence over Laos, codified in the 25-year Treaty of Friendship and Cooperation signed in 1977. The number of Vietnamese troops and advisers in Laos, however, has been declining since late 1987. The total of 40,000 to 50,000 troops originally stationed in Laos under the terms of the treaty has been greatly reduced. There have been reports that all Vietnamese combat troops and most military advisers have been withdrawn. In the last 2 years the LPDR has been working to improve relations with the West and to attract more Western assistance. The U.S.S.R. is also very influential in Laos; it is the largest contributor of economic and military assistance. Laos has begun to accept Soviet concepts of perestroika (restructuring), although the LPDR is seeking its own Lao formulation appropriate to its highly underdeveloped conditions.

Established 14 years ago, the LPDR still has no constitution and no published code of law. However, elections were held in March for a national assembly to draft a constitution. All candidates in this election were approved by the LPRP, although a number of victorious candidates were not party members. A constitution is not expected before mid-1990 at the earliest.

Laos is one of the poorest countries in the world. The Government's harsh policies, particularly in its first 5 years, combined with difficult economic conditions in general, drove some 350,000 Lao into exile. Among those refugees were most of the educated elite. Laos accelerated its economic reform efforts in 1988 and 1989. These reforms are designed to stimulate domestic and foreign investment and to improve the efficiency of state-owned enterprises. Laos has also opened its economy to Thai and Western businessmen. Although the economy is improving as a result of these reforms and the ability of many citizens to participate in an emerging private or mixed state/private sector, the average standard of living remains extremely low.

Although difficult for outside observers to judge accurately, the human rights situation appeared to have improved in 1989. Freedom of movement within the country and travel abroad has increased, and the instruments of state control, principally the police and other elements of the Ministry of Interior, seemed to be less evident and perhaps less oppressive. Nevertheless, there continue to be severe limitations on freedom of speech and press and on freedom of assembly and association. Most reeducation camps have been closed and the bulk of the prisoners released. An unknown number of inmates, but at least 34, are entering their 14th year of incarceration, without benefit of judicial trial or legal review for release. Many former camp prisoners apparently have been able to obtain work; some of them now have responsible, professional positions both with the Government of Laos and with international organizations present in Vientiane. Some, however, appear to be blacklisted and able to find only menial positions. These persons seem to be able

to obtain passports and visas as freely as any other Lao and have been able to travel overseas, despite the fact that some have not returned.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There are sporadic reports of shooting incidents involving organized groups leaving or entering Laos illegally. At least one group of Hmong tribesmen leaving Laos for Thailand was reported to have been pushed back and then suffered casualties from LPDR forces. In addition, in August the Government claimed to have intercepted and killed or captured in southern Laos over 60 armed Vietnamese hostile to the Hanoi Government who had intended to reenter Vietnam. There are occasional reports that government patrols have fatally shot persons leaving or entering Laos illegally. In those instances in which the Government confirms such incidents, it generally claims that the persons were smugglers or members of the resistance. An unknown but small number of people are killed annually in military operations against resistance forces. Many of the insurgents appear to be former Royal Lao Army troops and Hmong tribesmen. Both sides are reported to use brutal tactics, with antigovernment forces attempting assassination and ambush of government military and civilian personnel. There are also recurrent reports of attacks by bandit groups in isolated or interior areas on vehicles bearing government officials and on civilian buses. Official policy calls for the execution of resistance leaders, but no such executions were reported in 1989.

b. Disappearance

No disappearances were reported in 1989.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

A relatively small number of "reeducation" prisoners continue to be held in harsh conditions but recent details are not available. The police do not appear to use torture or degrading or cruel treatment during arrest or detention, although prison conditions are stark.

d. Arbitrary Arrest, Detention, or Exile

The Government continues to maintain reeducation camps, or "seminar camps," in which persons who served the Royal Lao Government, or who have offended the current government, are imprisoned. Even rough estimates for the population of these camps are difficult to make, but range from a minimum of 34 political detainees left from the original population of Royal Lao Government officials to over 1,000. The higher number allegedly includes the original 34 plus many who were imprisoned during the late 1970's and the 1980's. Government officials continued to claim, as they had previously, that nearly all soldiers and officials sent to the camps in 1975-76 had been released and that very few remained. The accuracy of that statement cannot be verified. There were reports of releases of groups of up to 300 persons in 1988. There were reports of additional, substantial releases of camp prisoners

in 1989, but firm numbers were not available. Since 1979 conditions in the remaining camps reportedly have improved, and the majority of the camps have been reported closed. The Government claims that all reeducation camps have been closed. However, this claim has not been verified.

Remaining detainees now live in a kind of internal exile in isolated provincial areas with severe restrictions on their freedom of movement. Many reportedly have been assigned to collective farms or construction units inside their former camps. Some are on probation or cannot obtain necessary travel documents. Others who have lost property and families are reported to have remained in areas near the camps to begin new lives.

Those accused of hostility to the regime or of what the Government calls "socially undesirable habits," such as prostitution, drug abuse, idleness, and "wrong thought," are sent to "rehabilitation" centers, usually without trial. Most of these persons have been allowed to return to their homes after periods ranging from a few months to several years of hard labor, political indoctrination, and admission of guilt.

With regard to forced or compulsory labor, see Section 6.c.

e. Denial of Fair Public Trial

A criminal code and laws establishing a judiciary were enacted in November 1989 by the Supreme People's Assembly, although they had not taken effect or been published by year's end. It is not known what changes these laws may make to Lao legal procedures. At present the courts are not independent and there is no guarantee of due process. Prior to the recently passed criminal code, the Government had promulgated interim rules and regulations for the arrest and trial of those accused of specific crimes, including armed resistance to the Government. Although the regulations allow an accused person to make a statement presenting his or her side of the case, they provide no real opportunity for the accused to defend himself and do not permit bail or use of a freely chosen attorney. Rather, the Government has issued instructions on how to investigate, prosecute, and punish wrongdoers. These instructions are applied capriciously and inconsistently. People can be arrested on unsupported accusations and without being informed of the charges or the accusers' identities. Investigations often take a long time unless family members and friends take a strong interest in the cases. Government officials and their families easily can influence judgments. There is some provision for appeal, although important political cases tried by "people's courts" are without an appeals process. Death sentences must be approved by the Council of Ministers. Regulations call for judgment to be given in public. This generally amounts to a public announcement of the sentence and not a true public trial.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

There appears to have been some relaxation of state control by the police and security elements. Knowledgeable observers report seeing fewer obvious signs of monitoring and control of citizens. However, search and seizure continue to be authorized by the security bureaus themselves rather than by judicial authority, and government regulations, which are not always followed, provide little protection. International and

domestic mail is selectively opened. Mail from China and non-Communist countries is particularly suspect. Telephone calls are frequently monitored. Privately owned land may not be sold but may be inherited. Inheritances cannot be passed on to relatives who have left the country as refugees and acquired other nationalities.

The Government continues to try to monitor some aspects of family and work life through a system of neighborhood and workplace informants.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Public expression of opposition to the Party and State is not permitted, and participants in such activity have been jailed. Newspapers and the state radio are instruments of the Government, reflecting only its views. Ordinary citizens may not import foreign newsmagazines or books; censorship is strict.

The Government makes no attempt to stop citizens from listening to foreign radio stations such as the Voice of America, nor from setting up antennas to receive Thai television.

Academic freedom does not exist.

b. Freedom of Peaceful Assembly and Association

The Government controls all meetings and, except for religious, athletic, and communal events, organizes them. Persons do not have the right to promote nonregime-sponsored activities nor to protest government policies. All associations--such as those for youth, women, workers, and a "peace organization"--are officially authorized to exercise government control and disseminate government policy. The LPRP organizes all professional groups, and their leadership is ordinarily drawn from party ranks. Associations are permitted to maintain relations with like-minded, politically acceptable organizations in other countries, particularly those in Communist countries. Ordinary Lao citizens are able to meet with foreigners only in unusual circumstances, usually involving their work. Nevertheless, contact with foreigners is increasing.

For a discussion of freedom of association as it applies to labor unions, see Section 6.a.

c. Freedom of Religion

Nearly all Lao are Buddhists or, in the case of most highland groups, animists. In official statements, the Government has recognized the right to free exercise of religious belief as well as the contributions religion can make to the development of the country.

Many Lao believe, however, that the Government is engaged in a long-term effort to subvert religion because it considers the maintenance of temples and the activities of monks non-productive and because it objects to active groups with independent beliefs. This effort includes carefully controlling the education of young monks and compelling Buddhist clergy to propagate elements of Marxist-Leninist

doctrine. Further, since 1975 the Government periodically has taken over Buddhist and Christian places of worship for use as schools, offices, and fire and police stations, as well as for political indoctrination centers and warehouses. Nonetheless, since the Third Party Congress in 1982, the Government has eased its stand on Buddhism. While it has not, so far as is known, contributed to the restoration of temples and religious institutions, it has not opposed efforts of the faithful to do so, and both restoration and new building are now widely evident.

Monks remain the only social group still entitled to special honorific terms of address, which even high party and government officials continue to use. Buddhist clergy are prominently featured at important state and party functions. Religious festivals are permitted without hindrance. The Government does not object to the Lao custom of young people entering religious orders for short periods.

Links may be maintained with coreligionists and religious associations in other countries, usually other Communist countries, only when approved by the Government. Most traditional links to Thai religious sects have been severed., Missionaries are not formally banned from entering Laos to proselytize, but in most cases they are denied permission. Despite the overall government attitude, many high party officials still participate in religious ceremonies.

Roman Catholics and Protestants are permitted to worship, but the activities of their churches are closely monitored. Vatican officials visited in 1987 to meet with the Bishop of Vientiane, as well as with local church and government officials. Attendance at Christian services continues to require discretion, although less so in 1989 than in 1988. The Government tries through the media and other means to persuade highland minority groups to abandon their "old-fashioned" animist beliefs.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens must obtain permission from the authorities for internal travel. Non-Lao residents in Vientiane must obtain permission to travel outside the city. Permission is now much easier to obtain than before, but is not necessarily automatic. Government officials have cited threats of "disorders" created by "reactionary elements" as the reason for the restrictions.

Foreign travel is increasingly permitted for officials, students, and others who have family abroad or access to foreign exchange. Most students continue to study in the Communist countries, but the number of students going to the West for higher education, although still small, has increased dramatically. Passports and exit visas have become much easier to obtain. The number of the relatively few travelers to the West and to the United States has increased sharply. Border crossing permits are available for those with business in Thailand. The number of permits increased in 1989, in keeping with the opening of additional border trade locations and the reduction in the number of items restricted by the Thai Government for trade with Laos. The permits are not, however, granted automatically and may be denied arbitrarily.

Legal emigration is rarely authorized for ethnic Lao. To guard against emigration, those permitted to travel must often

leave their families behind as a guarantee of their return. Since 1975, 343,000 Lao citizens have registered as refugees in Thailand. An unknown number have crossed the border and simply settled with relatives or kindred ethnic groups. Some of those fleeing are fired upon and killed by border patrols as they attempt to cross the Mekong River. Government authorities have imprisoned many persons seeking to leave the country illegally.

Laos and Thailand have agreed to take back, on a case-by-case basis, those of their respective citizens who have illegally crossed into the other country and now wish to return home. Since May 1980, when agreement was reached with Thailand and the United Nations High Commissioner for Refugees (UNHCR) on a voluntary repatriation program, over 4,675 persons have voluntarily returned to Laos under the auspices of the UNHCR. Those accepted for return receive several days of political indoctrination and then are released to return to their homes, where they are placed under the control of village authorities. The UNHCR provides basic necessities for the returnees and monitors their treatment and living conditions thereafter. There appears to be no official harassment or maltreatment of these voluntary returnees, and UNHCR officials have not been prevented from visiting them. In addition, perhaps as many as 10,000 persons have repatriated themselves without official involvement.

The Government has also agreed in principle to take back Lao citizens in Thailand whom the Thai have determined do not meet refugee status criteria. Procedures for the return of these persons were worked out between the two countries in late 1986, and since that time 164 have been returned. Those in Vientiane who follow refugee matters closely report that there is no perceptible difference in the way the Government treats those returnees who were screened out and those who returned voluntarily.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the right to change their government. The LPRP fully controls the Government. The LPRP is run by a small elite who also occupy many of the principal government posts. There is neither freedom to participate in politics outside the party nor popular choice of policies. The new National Assembly elected in March includes a number of assemblymen who are not formally LPRP members, although their candidacies were approved by the party. Some 121 candidates ran for a total of 79 seats, and each electoral district had more candidates than seats. This election followed elections for district and provincial officials in 1988. No other parties were permitted to organize and voting was mandatory. These elections, the first held since the LPDR was formed in 1975, represent an effort by the LPRP to legitimize the Government and may represent some political liberalization. The new National Assembly is expected to finish writing a constitution in 1990 which may then be approved by a plebiscite. This new constitution would serve as a framework for the criminal code and laws establishing a judiciary and would also serve as a basis for additional laws.

LAOS

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Laos generally does not cooperate with private international human rights organizations. However, it does occasionally permit visits by officials of international humanitarian organizations and has communicated with them by letters. No domestic human rights monitoring groups are permitted.

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status

Approximately half of the population in Laos is ethnic Lao; also called "lowland Lao;" 20 percent are tribal Thai; 15 percent are Phoutheung (or Kha); and another 15 percent are other highland groups (Hmong, Yao, and others). The Government is attempting to integrate these groups through voluntary programs and to overcome traditional antagonisms between lowland Lao and minority groups. Although the LPRP and the Government are dominated by lowland Lao, efforts have been made to include minorities in the political and governmental elites. For instance, 43 of the 121 candidates for the National Assembly were from minority groups.

The Hmong are split along clan lines. During the years of insurgency, many were strongly anti-Communist; others sided with the Communist Pathet Lao and the Vietnamese. The Government represses all groups that fought against it, especially those continuing to resist its authority by force. The Hmong tried to defend some of their tribal areas after 1975, and some continue to support anti-LPDR resistance groups. Lao armed forces conduct operations against resistance groups.

The Government wants to resettle in the lowlands some ethnic minorities from mountainous areas. After resettlement they would be under closer government control and engage in settled agricultural production rather than the present slash-and-burn techniques. For this purpose, the Government has reportedly relied on a voluntary program based on material inducements and has begun several large-scale projects with foreign donors.

Local ethnic Chinese have encountered government suspicion and surveillance since 1979 when Sino-Lao relations deteriorated seriously. This has abated, however, since relations between Laos and the People's Republic of China were normalized in 1988. A majority of the Chinese community departed in the post-1975 period, largely for economic reasons. Those who remain have maintained government-approved Chinese schools in Vientiane and Savannakhet and Chinese associations in several provincial capitals.

Traditionally, women in Lao society have been subservient to men and often discouraged from obtaining an education. Today the active, government-controlled Lao Women's Federation has as one of its goals the achievement of equal rights for women. The Government claims that a higher percentage of women make up the school population now than before 1975, and that women are being encouraged to assume a greater role in economic and state-controlled political activity.

There is no pattern of widespread domestic or culturally approved violence against women. Both lowland Lao and hill tribes tend to hold women in lower esteem than men.

LAOS

Section 6 Worker Rights

a. The Right of Association

The overwhelming majority of workers are employed by the State, and they are very poorly paid. Labor laws do not exist. Labor unions exist but are small and have no right to strike. All unions are controlled by the Federation of Lao Trade Unions, which in turn is controlled by the LPRP. The Federation is a member of the Communist-controlled World Federation of Trade Unions.

The LPDR is a member of the International Labor Organization (ILO), but has not ratified ILO Conventions 87 on freedom of association, 98 on the right to organize and bargain collectively, or any other conventions related to the worker rights covered in this report. In its 1989 report, the ILO Committee of Experts cited the LPDR for failing to respond to its requests for information concerning pending complaints.

b. The Right to Organize and Bargain Collectively

Unions play no discernible role in ameliorating the low salaries and wages, for instance, of public employees, the largest single category of employment. Under the foreign investment code published in 1988, some worker rights are guaranteed, such as the right to have job responsibilities defined, to be paid for that job and not another, to be paid more for overtime, and for overtime to be approved by the authorities as well as by the investor. There are no economic incentive zones or special industries where labor standards differ from those elsewhere in the country.

c. Prohibition of Forced or Compulsory Labor

While there is no published code of laws concerning protection from forced labor, there is no general pattern of forced labor in Laos. Prisoners in reeducation camps, or in prison camps (the former for "ideological" crimes, the latter for "economic" or "social" offenses) are expected to do hard labor. In addition, there are reports that some of these prisoners, when released, are restricted to the general area of the camp (always in rugged and mountainous terrain) and expected to work there on state enterprises.

d. Minimum Age for Employment of Children

There is no minimum age for employment of children. In practice children in this rural economy commonly assist in the work of their families.

e. Acceptable Conditions of Work

Workplace conditions are not systematically exploitative, but they sometimes fail to protect workers adequately against sickness or accident. There is no specific system of laws or regulations relating to worker safety. Working hours do not exceed 48 hours a week, except during urgent roadbuilding or construction projects. It is unclear whether such urgent labor is compulsory. There is no minimum wage legislation; wages are low, particularly in the state sector and are, in fact, not sufficient to live on unless supplemented by other sources of income. Some workers receive paid 2-week vacations.

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GENERAL ASSEMBLY
Forty-fifth session
Items 92, 94, 100, 103, 104, 109
and 112 of the preliminary list*
EFFECTIVE IMPLEMENTATION OF
UNITED NATIONS INSTRUMENTS ON
HUMAN RIGHTS AND EFFECTIVE
FUNCTIONING OF BODIES ESTABLISHED
PURSUANT TO SUCH INSTRUMENTS
ELIMINATION OF ALL FORMS OF RACIAL
DISCRIMINATION
IMPLEMENTATION OF THE CONVENTION
ON THE RIGHTS OF THE CHILD
CRIME PREVENTION AND CRIMINAL
JUSTICE
ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN
ELIMINATION OF ALL FORMS OF
RELIGIOUS INTOLERANCE
TORTURE AND OTHER CRUEL, INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT

SECURITY COUNCIL
Forty-fifth year

Letter dated 18 April 1990 from the Chargé d'affaires a.i.
of the Permanent Mission of Israel to the United Nations
addressed to the Secretary-General

I have been instructed by my Government to draw your attention to the attached extract from Country Reports on Human Rights Practices For 1989, published by the Department of State of the United States of America, which contains information on the situation concerning human rights in Pakistan. I have underlined passages of special relevance (see annex).

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* A/45/50.

In view of the importance of this information, I have the honour to request that the present letter and the attached extract be issued as an official document of the General Assembly, under items 92, 94, 100, 103, 104, 109 and 112 of the preliminary list, and of the Security Council.

(Signed) Johanan BEIN
Ambassador
Acting Permanent Representative

ANNEX*

101st Congress
2d Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1989

REPORT

SUBMITTED TO THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

FEBRUARY 1990

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* Underlining has been added by the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations.

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PAKISTAN

The political landscape in Pakistan changed drastically in 1988 with the death of President Zia and the orderly transition to representative government under Prime Minister Benazir Bhutto, whose Pakistan Peoples Party (PPP) won a plurality in the 1988 National Assembly elections, considered by many observers the fairest and most orderly in the nation's history. Pakistan's efforts to develop democratic institutions have been hampered by differing interpretations of constitutional authority and responsibility, both within the Federal Government and between the federal and provincial governments, as well as by intense competition between the government party and a strong opposition alliance. During 1989 the crucial constitutional question under debate on the federal level involved a disagreement over the powers of the President and Prime Minister, caused in part by the previous government's changes in the Constitution. The military has continued to speak out in support of Pakistan's emerging democracy.

The relationship between the Federal Government and the provincial governments of Punjab and Balochistan, whose provincial assemblies are controlled by opposition parties, adds a further complication. Political acrimony has brought to a virtual halt progress on implementing needed social welfare and economic reform programs in these provinces.. It has also encouraged ethnic tensions and weakened both law and order and orderly administration, with a negative impact on the human rights situation.

Responsibility for internal security rests primarily with the police, although the army is called upon on occasion to restore order during civil disturbances. Paramilitary forces also operate in frontier areas and help maintain law and order. Police forces are under provincial control.

The public sector share in Pakistani industry has diminished in recent years, and by 1988 private sector investment accounted for 83 percent of total investment in the manufacturing sector. In December 1988, Pakistan adopted a 3-year structural adjustment program with the International Monetary Fund (IMF) which may help Pakistan reduce its deficit and commit more resources for social development programs, although it also imposes rigorous austerity measures, such as price rises for electricity and gas.

The Bhutto Government has made progress in some aspects of human rights, although problem areas remain. The review of martial law cases and the release of political prisoners has been largely completed. Most travel restrictions have been lifted, and Pakistanis no longer need government permission to travel abroad. The appointment of a substantial number of former human rights activists to high-level government positions has invigorated debate and focused attention on some human rights issues and human rights groups report they have greater access to officials and to the media than before.

In other areas, however, human rights abuses continued. Kidnapings and random violence continued in the southern province of Sindh and the tribal areas in the northwest. Government forces at times violated individual rights and used excessive force in efforts to combat banditry and reestablish law and order. There were repeated incidents of ethnic violence, especially in Karachi and Hyderabad. Widespread

police abuse of prisoners and the failure of authorities to bring to trial and punish personnel who commit such abuses remained a significant problem. Arbitrary arrest and detention of prisoners were also issues of concern. Religious minorities such as Ahmadis, Christians, and Hindus still faced discrimination and were the objects of harassment, and both social and legal constraints continued to place women in a subordinate position in society. Significant restraints also remained on worker rights.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There was no evidence of government or government-instigated political killings, but extrajudicial killings, usually from physical abuse of prisoners and detainees by police, continued largely unchecked and unpunished (see Section 1.c.).

Ethnic clashes have continued to result in one form of political killing. Violence between rival ethnic political parties and organizations, especially in Sindh province, was a growing concern as frequent outbreaks of violence beteeh Sindhi, Mohajir, Punjabi, and Pakhtun groups left scores dead. Armed clashes between the student wings of rival political and ethnic groups led to deaths on several occasions. Because of the random and often spontaneous nature of these incidents, and the political connections of many of the perpetrators, authorities have had little success in preventing this type of violence, and the perpetrators have largely gone unpunished.

b. Disappearance

There were no reports of government-instigated disappearances. Kidnapings by highwaymen of prominent persons occur regularly in rural Sindh, usually for ransom. Incidents of kidnaping for ransom have also occurred in urban Sindh, and recently increased in the city of Karachi. Most of the victims were eventually released unharmed.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Police beatings and torture of arrestees are common; in its 1989 Report, covering 1988, Amnesty International (AI) noted that at least 19 prisoners were reported to have died in custody as a result of torture. Beating, whipping the soles of the feet with rubber whips, sexual assault, and prolonged isolation are said to be common occurrences in Pakistani jails. When deaths have occurred, allegations of suicide are used by police to cover up evidence of torture. There havebeen persistent and credible allegations in the press and from other observers that some ethnic and political parties have tortured political opponents, and, in some cases, used torture to enforce party discipline among their own members. The groups alleged to have used torture have publicly denied such allegations, and have claimed that the charges are politically motivated.

The Government (whether Federal or provincial) rarely holds police accountable for abuses. Police and jailers use "third

degree" methods to obtain information and confessions and frequently employ the threat of abuse to extort money from prisoners and their families. In August a young man in Lahore died in detention, allegedly after being tortured by police. The press has also reported several instances of the deaths of prisoners under police detention in Karachi. A recent survey alleged that 43 percent of the women imprisoned in the Multan jail reported being sexually abused by prison authorities. The federal Ministry of Interior in 1989 established an office to monitor instances of arbitrary arrest, brutality, and extortion within the police forces; by year's end, the office had been established, and, according to the Ministry of Interior, had accepted and begun to investigate dozens of cases.

The Hadood Ordinances, promulgated in 1979, apply to Muslims and non-Muslims alike but appear to weigh most heavily on women and carry harsh punishment for actions deemed contrary to Islamic law. Extended imprisonment is the most common punishment. Two-thirds of the 99 women held in Karachi central jail in August 1989 were imprisoned under these ordinances. Some 60 poor women, many with minor children, were held in Lahore's Kot Lakhpat prison for alleged violation of the Ordinances. In June the Sindh high court stayed the executions by stoning of six people convicted under the Ordinances. The federal Shari'a (Islamic) Court accepted an appeal by two teachers convicted of adultery and sentenced to death by stoning. No punishments involving stoning, flogging, or amputation have been carried out under the Ordinances, but these laws remain in effect. Frequently, under the Ordinances, women who complain of rape find themselves arrested on charges of adultery.

Among the three classes of prison facilities that exist, Class "C" cells, which generally hold common criminals, suspected terrorists, and low-level political workers, are the worst. They usually have dirt floors, no furnishings, and poor quality food, and the use of handcuffs and fetters is common. Prisoners in these cells reportedly suffer the most abuse, such as beatings and being forced to kneel for long periods. Conditions in "B" and "A" cells are markedly better, with the latter reserved for "prominent" persons. Although increased attention is being focused on improving the worst jail conditions, there has been little real progress.

d. Arbitrary Arrest, Detention, or Exile

Pakistani law permits detention of persons suspected of threatening public order and safety for 30 days under court order. Such court orders are renewable for 30 days at a time, up to a total of 90 days, if the Government can demonstrate that the detainee does in fact threaten public safety. According to the law, detainees must be informed expeditiously of the reason for their detention. Most detainees are released fairly quickly, but only after the situation which prompted the preventive detention has passed. In September the Government promulgated an ordinance which denies bail to those arrested for terrorist activities if sufficient grounds exist to believe the accused is guilty of the crime.

Former detainees claim that prisoners under preventive detention frequently are held incommunicado. In July federal authorities detained former provincial chief minister and opposition figure Fazle Haq without charge. His continued detention has led to charges of official harassment of

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political opponents. At the same time, Punjab authorities arrested a pro-PPP activist for allegedly having delivered an inflammatory speech in January. He has been released on bail. The federal and particularly the Punjab authorities have harassed their political opponents by filing criminal charges of dubious credibility against them, obliging them to seek bail.

There have been repeated allegations of arbitrary arrests during attempts to quell communal violence. The majority of persons detained in such operations are released in a matter of hours or 1 or 2 days.

With regard to forced or compulsory labor, see Section 6.c.

e. Denial of Fair Public Trail

The civil judicial system, modeled after the British system, provides for an open trial, cross-examination, representation by an attorney, and appeal of sentences. The court will appoint an attorney for indigents in capital cases.

The pace of justice is slow due to the limited number of judges, the heavy backlog of cases, and outdated court procedures. The political impasse between the Federal and Punjab Governments has blocked appointment of judges in that province to succeed those who have retired or died. Over a quarter of the seats on the Lahore High Court are vacant, while scores of positions in the lower magistracy remain unfilled. These vacancies inevitably further delay the judicial process. Karachi human rights activists believe there are dozens of people awaiting prosecution in Sindh jails who have been held for periods longer than the sentence they would receive if convicted. Prison authorities allowed greater access to legal counsel to see prisoners and clients during 1989.

The special Shari'a (Islamic) courts operate in a manner similar to ordinary civilian courts. They try offenses relating to the enforcement of the Hadood Ordinances and also rule on whether laws are offensive to Islam. Cases referred to the Shari'a courts are heard jointly by Islamic scholars and judges from the civilian court system who usually employ ordinary criminal procedures. Both judges and attorneys must be Muslim and be familiar with Islamic law, although non-Muslims have been brought before the Shari'a courts. Defendants in the Shari'a courts are entitled to bail and lawyers of their choice.

Before martial law was lifted in 1985, the Parliament passed the Eighth Amendment to the Constitution which withdrew from the civilian judiciary the right to review the actions of martial law authorities and courts. Under the Eighth Amendment, only those sentenced to death by martial law courts may petition to have their cases reviewed by the President; all others must appeal to a provincial governor. In 1988 the Supreme Court allowed limited categories of people convicted under martial law courts to apply for review of their cases. Estimates of martial law prisoners still in detention vary from 15 to 200. Currently, martial law prisoners or their representatives have two avenues for review. The first avenue is to apply to have their cases considered by a special office in the President's Secretariat. The second avenue is to have their original cases reviewed by the ordinary civilian courts. The constitutionality of the procedures under which

the Eighth Amendment was passed is currently being adjudicated before the Sindh and Balochistan High Courts.

In 1987 the Government established special courts to provide speedy trials in cases involving "offenses sensational in character or shocking to public morality, creating panic, or an atmosphere of fear and anxiety among the public." Cases involving bomb blasts, sabotage, highway robberies, banditry, or kidnaping can be expedited through these courts, and the Government may transfer cases from any other court to a special court.

Critics, including many lawyers, have expressed several concerns about the special courts. First, the accused is hampered from preparing an adequate defense and calling witnesses because of the short time allocated before the trial (usually a matter of a few days). Second, they believe that the judges in these courts are predisposed to find defendants guilty, given the high political profile of the proceedings. Third, the decision to refer a case to this system is an arbitrary one, made by the senior levels of the provincial government. The criteria for deciding which cases can be tried under these courts is broad enough to enable provincial authorities to abuse the system. Government officials argue that the courts are necessary to circumvent the judicial backlog; that all requirements of the rules of evidence still apply, including the right to counsel; and that the judges must meet the same standard as those appointed to a high court. They note that decisions may be appealed to the Supreme Court.

In September the Lahore High Court ruled that the speedy trial courts were illegal and closed them in Punjab province on the grounds that the original 1987 act had expired in early 1989 and that the provincial government had failed to extend it. Speedy trial courts continue to exist and operate in the Sindh.

Appeals of the 1986 death sentences against four Ahmadi defendants, whose convictions in 1985 by martial law courts in two separate murder cases raised serious human rights questions, are still pending. The death sentences themselves, however, have been commuted to life imprisonment as a result of the amnesty measures taken by the Bhutto Government in December 1988.

In December 1988 and January 1989, the new Government announced a major prisoner release program for martial law and political prisoners. Although thousands benefited from the program, some groups criticized the Government's review procedures which allegedly freed a number of hardened criminals but left members of opposition parties and members of minority religious groups behind bars. Estimates vary on the number of political prisoners who remain in custody.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Decisions about occupation, education, place of residence, and family size are made without official interference. Although police are required by law to obtain a warrant before entering a private home, authorities frequently ignore such legal requirements. During bandit sweeps and riots, police often chase suspects into homes without pausing to ensure the presence of a magistrate as required by law. There have been repeated allegations of incidents involving the use of

excessive force in Sindh during attempts to quell ethnic violence. There are frequent charges that women throughout the country have been harassed and raped and their belongings stolen by individual officers. Although press and public attention to such incidents has increased, the Government has been slow to respond to or investigate such charges and to deal with problems of police indiscipline. Extortion and robbery by policemen are believed to be common.

Pakistan maintains several domestic intelligence services which monitor political activists, suspected terrorists, and suspected foreign intelligence agents. Informed sources maintain that wiretapping is used against opposition politicians and that their mail is occasionally intercepted and opened, and they are frequently under surveillance. Civil and military officials are instructed to report their contacts with foreign diplomats.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Persistent ethnic divisions in the province of Sindh have led to incidents of communal violence in which persons belonging to one ethnic group have been killed in indiscriminate attacks by rival groups. There have been repeated allegations, which are difficult to verify, that law enforcement agencies have caused the deaths of innocent persons while attempting to bring communal violence under control or while standing by and refusing to intervene.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Government owns and operates the radio and television stations and strictly controls the news they carry. A government-owned press trust controls four of the larger newspapers. The Government has yet to act on its campaign promise to disband the press trust, but has announced the establishment of separate management boards to run each of its publications. In addition, one of the two wire services is under the control of the Ministry of Information. Other newspapers are privately owned and their circulation far exceeds that of the government-owned papers.

The government newspapers and wire services are circumspect in their coverage of the news. Early in the year, there was an increase in coverage of the opposition in the official media, but that trend has fallen off in recent months, and the government-controlled media have again been restricting and distorting opposition news. Laws against bringing Islam or the armed forces into discredit or ridicule remain in force; reporters and editors exercise self-censorship in these areas. Continuing a trend begun in 1985, there is relatively free discussion of government policies and criticism of the Government, especially in the privately owned newspapers. Besides more or less unfettered reporting of statements made by legislators, the private press routinely reports remarks critical of the Government made by opposition politicians. The Government has suspended advertisements, an important source of revenue, in Markaz and in the Observer, newspapers often critical of the PPP. The Observer's editor was charged in July with violating the Official Secrets Act (a law left over from the British colonial era) in his book on Pakistan's nuclear program. Although the Government has denied that the

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arrest was related to the newspaper's policies, most papers carried editorials condemning the action as giving the appearance of restricting freedom of the press. Members of the Council of Pakistan Newspaper Editors believe the action was a result of the Observer's constant criticism of government policies. Although government officials are no longer calling editors to demand the inclusion or exclusion of particular stories, they are still giving editors "advice" on certain stories, which is generally followed.

The Government was also criticized in August for advising the press that any reporting on cabinet meetings other than the official report provided by the Government would be evaluated in the light of the Official Secrets Act. At the same time, the Prime Minister reminded the media of Article 6 of the 1973 Constitution which provides for the death penalty for those who damage the Constitution by any act, including publication of statements against the spirit of the Constitution. This apparently has stopped the publication of statements against the Constitution.

The actions of some political and religious pressure groups pose another danger to press freedom in Pakistan. In early 1989, the office of the daily Markaz was burned, allegedly by political party workers. Also, a political party in Sindh called a 1-day boycott of the largest circulation daily newspaper in Karachi. During the boycott, people were forcibly prevented from purchasing the paper, and its journalists and editors were threatened.

A restrictive Press and Publication ordinance, promulgated in 1963, was repealed in September 1988. Although the ordinance had not been used in the past few years, it was widely viewed by the press as being arbitrary and giving the Government sweeping powers over the press. It was replaced by a Printing Press and Publications ordinance which requires the registration of printing presses and newspapers and which also allows the Government to confiscate newspapers or magazines deemed objectionable. In a departure from past practice, the new law allows newspapers to appeal to the civil courts and allows individuals to start issuing new publications without approval if the Government fails to act on their application within 4 months.

The National Assembly enacted a new press act in 1989 which allows journalists access to all federal and provincial government files, except "highly sensitive defense files." Under this act publication permits are still required but can be obtained at the local level.

Academic freedom is generally recognized by government and university authorities, but almost all institutions of higher learning are state run, and authorities have extensive powers to restrict the actions of individuals and groups regarded as troublesome. Another threat to academic freedom is the atmosphere of violence and intolerance among student organizations, frequently with connections to the major political parties. At many universities, well-armed groups of students of varying political persuasions clash frequently and are successful in intimidating other students, instructors, and administrators on matters of language, syllabus, examination policies, doctrine, and dress.

Student unions were legalized again in early 1989 by Prime Minister Bhutto and held elections in the Punjab in the

spring; student groups in other provinces are planning elections.

Literary and creative works remain generally free of censorship, but authors and publishers tend to avoid controversial and political themes. Obscene literature, a category which is broadly interpreted by the Government, is subject to seizure. Authorities have frequently banned or confiscated books and magazines dealing with sensitive political topics. The Government in 1988 banned "The Satanic Verses" by Salman Rushdie, a book which raised the ire of Muslims worldwide. In August the Government arrested, and later released, the author of a book on the development of Pakistan's nuclear program, and the book has been banned in two provinces. In speeches throughout the country, senior officials reiterated the Government's intention to prosecute anyone violating the Official Secrets Act. Dramas and documentaries on once taboo subjects, such as narcotics and female inequality, are now shown frequently on Pakistani television.

b. Freedom of Peaceful Assembly and Association

The Government continued to respect the right of peaceful assembly in most cases, although district magistrates exercised their power to ban meetings of more than four people whenever violent demonstrations seemed in the offing. Political leaders of all persuasions were usually able to travel freely and address large rallies, often emphasizing antigovernment themes. In February a demonstration in Islamabad against "The Satanic Verses," sponsored by a coalition of religious parties, turned violent. Seven people were killed and the American Center was attacked. The opposition coalition of parties, Islami Jamhuri Ittihad (IJI), held large rallies in Islamabad and Peshawar in August. Despite these examples, regulations preventing demonstrations are regularly invoked in Sindh Province during times of ethnic tension. The Sindh National Alliance was prohibited from holding a rally at the Provincial Assembly and the Mohajir Qaumi Movement (MQM) was prevented from demonstrating at the Chief Minister's house. To forestall potential violence between religious groups, the authorities prevented clergymen from traveling to certain areas during the religious month of Muharram. Afghan refugees were prevented from attending a large memorial service held in Islamabad on the anniversary of President Zia's death.

For a discussion of freedom of association as it applies to labor unions, see Section 6.a.

c. Freedom of Religion

Pakistan is an Islamic republic with a population that is 97 percent Muslim. Its 1973 Constitution requires all law to be consistent with Islamic ideology. Under the Constitution, the President and Prime Minister must be Muslims. However, designated minority religious groups--for example, Ahmadis, Christians, and Parsis--have held high office and are represented in the economic, political, and social life of the country. The PPP Government has appointed several Ahmadis to high government posts. These minorities are not permitted to vote in Muslim constituencies, but rather must seek office and cast their ballots in at-large constituencies reserved for them in the national and provincial assemblies, an arrangement widely criticized by minority and human rights groups.

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(Ahmadis, disputing their minority status and their designation as non-Muslims, have refused to exercise these electoral options.) Although by law Hadood Ordinances are applicable only to Muslims, minorities, especially Christians and Hindus, complain that the Hadood Ordinances are also applied to non-Muslims, making family matters, such as divorce, more difficult.

Generally, minorities can practice their own religion openly, maintain links with their coreligionists in other countries, and travel for religious purposes. Foreign clergy may enter the country to serve congregations. Conversions are permitted, but the Government prohibits proselytizing among Muslims and has refused to renew the residence permits of some foreign missionaries who have ignored this ban. In November nine Ahmadi doctors were arrested and charged with proselytizing while providing health care services.

The Ahmadi sect, which considers itself Muslim despite theological divergences from mainstream Islam, has historically been the object of popular prejudice and discrimination. Anti-Ahmadi riots in 1953 helped spark the imposition of Pakistan's first period of martial law. Following another outbreak of violence, in 1974 Prime Minister Zulfikar Ali Bhutto, with the support of all political parties, sponsored a constitutional amendment declaring the Ahmadis a non-Muslim minority. In 1984 the Government issued an ordinance which restricts the practice of the Ahmadi religion and bans the Ahmadis from using Muslim terminology or proselytizing. Violators are subject to prosecution. In 1986 Parliament passed legislation, apparently aimed at Ahmadis, making blaspheming the Prophet Muhammad a capital offense.

Many members of the Ahmadi sect were detained for displaying the Kalima, the Islamic profession of faith, and other Koranic verses. Most were released, but several were tried, convicted, and received prison sentences. Police removed the profession of faith from Ahmadi places of worship, which cannot be called mosques under Pakistani law. Several places of worship have been closed down. In March the Government forbade public celebration of the Ahmadis' 100th anniversary. Ahmadis charge that fundamentalist Muslim leaders have been effective in keeping Ahmadis in a position of second-class citizens. In April, during anti-Ahmadi riots in Nankana Sahib in Punjab, 15 Ahmadis were injured, and 50 houses and 3 places of worship were burned. In July Ahmadi-Orthodox tension turned violent in Chak Sikander in Punjab, leaving 4 dead, including 3 Ahmadis, and dozens of homes destroyed. Police occupied the village to maintain order, and some Ahmadis have been prevented from returning to their residences since the initial incident. A Pakistani human rights group investigated both incidents and concluded that local authorities failed to protect Ahmadi citizens and that the Punjab provincial government failed to investigate or take action against those authorities. To date, there still have been no official inquiries into the incidents. The Ahmadis were prohibited from holding their centenary celebration in April in Punjab Province, and there are credible reports of discrimination which limits the promotion possibilities for Ahmadis in the military and civil service. There have been reports of the forced conversion of female members of the Ahmadi sect. The major Ahmadi newspaper, banned for 3 years, resumed publication in March. In December the entire population of Rabwah, the Ahmadis' headquarters city, was charged in a complaint lodged with police with having violated Ordinance 20.

This law establishes as criminal certain acts of the Muslim faith when performed by Ahmadis, including the declaration of faith. By the end of the year, 16 prominent Ahmadis had been arrested and incarcerated on such charges.

Christians have had difficulty in getting permission to build new churches, although the Government reached a compromise in August with a congregation in Islamabad whose church construction had been halted for several years. Members of the Christian community complain that there are barriers to Christians rising to high positions in public service, public corporations, universities, and the military. Many Christians fill low-level jobs, such as in sanitation work and in similar municipal services. Some Christians work as bonded laborers in the brick kiln industry.

Hindus complain of continued kidnapings and forced conversions of young women, confiscation of Hindu shrines and temples, disruption of prayer services, and the burning of Hindu texts, as well as the torture of detained Hindus. In June a Hindu doctor was killed in Larkana, and four Hindus were murdered in rural Sindh while worshiping at a Hindu temple. No arrest has been made in the case of the killing of the doctor. One person was arrested and detained for 1 month before being released on bail in the case of the temple murders. At year's end the case had not yet come to trial.

Some observers believe the Government's reticence in looking into incidents involving discrimination against minorities is a reflection of its fear of offending fundamentalist Muslims who wield substantial influence over their coreligionists.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Pakistanis generally have freedom of movement within the country. Previous governments banned individual political leaders from traveling to certain provinces for a specified time through use of an "externment" notice. The only externment notice issued in 1989 by a provincial government prevented some Shi'a and Sunni clergy from entering certain areas during the Islamic holy month of Muharram; it was quickly rescinded.

Pakistanis are generally free to travel abroad. Travel to Israel, which is not recognized by the Pakistan Government, is legally prohibited, but Pakistanis nevertheless succeed in traveling to Jerusalem for religious reasons. There are various restrictions on travel to the Soviet Union, India, South Africa, Taiwan, and Eastern Europe.

All government employees are required to have "no-objection" certificates before traveling abroad. Students are also required to have "no-objection" certificates from their institutions. The Government announced that the exit control list, previously used to control foreign travel more broadly, now contains only the names of serious criminals, such as drug traffickers. However, the list remains a tool available to the Government to limit foreign travel.

Over 3 million Afghans have fled to Pakistan as a result of the Soviet invasion of Afghanistan and the current civil war. The Government administers and supports some 340 Afghan refugee camps at significant cost. The movement and employment of Afghans in Pakistan has generally not been

restricted, and many Afghans reside outside the refugee camps. With the signing of the Geneva accords in April 1988 and the Soviet troop withdrawal in February 1989, the Government and U.N. agencies have begun preparing for the refugees' return. The Government, however, has maintained its policy of not pressing refugees to go home before conditions in Afghanistan are secure.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The elections in November 1988 resulted in neither the PPP nor the Islamic Democratic Alliance attaining an absolute majority of seats in the National Assembly. President Ghulam Ishaq Khan on December 1, 1988 asked PPP leader Benazir Bhutto, as leader of the party most likely to receive a vote of confidence, to form a government. Under the Constitution of 1985, the President continues to hold the power, in consultation with the Prime Minister, to dismiss the Parliament and to act as Commander in Chief.

All Pakistanis aged 21 and over have the right to vote by secret ballot in elections. Local governments and the provincial and national assemblies are directly elected. The Senate, however, is elected by the four provincial assemblies. The President is also indirectly elected by an electoral college consisting of the national and provincial assemblies and the Senate.

According to the Constitution, the national and provincial assemblies serve terms of no more than 5 years, unless earlier dissolved. The President is to be elected every 5 years, while senators are elected for 6-year terms. Local by-elections were held for provincial and National Assembly seats in several constituencies throughout 1989. Although there were credible reports of vote-rigging in some areas, most observers report the elections proceeded without major interference.

Political parties have been allowed to operate since the lifting of martial law in 1985-1986. In 1988 the Supreme Court struck down a law banning unregistered political parties from participating in elections and upheld the use of symbols by political parties.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic human rights organizations operate free of official harassment and their reports receive extensive coverage in the press. Pakistan has allowed visits by persons affiliated with various human rights organizations. In 1989 an AI delegation met with government officials, including the President and Prime Minister. In 1989 several new human rights and legal aid groups were formed and operated without government restriction.

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status

With a female Prime Minister as head of government, increased attention has been given to the rights and status of women. A strong lobby of Islamic leaders, however, refuses to accept a woman leader and continues to stress a conservative

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interpretation of Islamic injunctions to justify discrimination against women. It is accepted practice to assign women a subordinate role in terms of civil, political, and individual rights.

Many Pakistanis interpret the Koran's injunctions on modesty to mean that women should remain either at home or behind the veil. In rural areas, although women of small farmer families generally work alongside men in the fields, their status remains subordinate to men, and they suffer discrimination in education, employment, and legal rights. Women are often discouraged from voting in elections by family, religious, or social custom in the rural and more conservative parts of Pakistan. In some of these areas, women are discouraged from voting by authorities who do not provide separate voting facilities for women who observe purdah restrictions; these women are unwilling to unveil themselves to male poll officials who seek to confirm their identity. Despite clear injunctions in the Koran and the civil laws that guarantee the right of women to inherit, in practice, for a number of reasons, women generally do not receive their due share in family inheritance.

These attitudes have contributed to a very low adult female literacy rate, estimated, for example, to be only 4 percent among rural women. The primary school enrollment ratio in 1983 was only 33 percent for girls as compared to 64 percent for boys, although the figure for each is rising.

A small number of urban women study and teach in the universities, but postgraduate employment opportunities remain largely limited to teaching, medical services, and the law, with a small number of women entering the commercial and public sectors. Women may now participate in international athletic competition, a change which took place only in 1989.

In February the National Assembly allowed the 1988 Shari'a Ordinance, which set up committees to ensure Islamization in education and the economy, to lapse, but a new Shari'a bill was introduced in the Senate. In July the federal Shari'a Court upheld the distinction under the Hadood Ordinances between evidence presented in court by a man and that presented by a woman. The court ruled that only men can testify as witnesses in certain cases; in other cases only women's evidence is acceptable. In certain cases the testimony of two women is required to equal that of one man.

There has been an upsurge in press reporting and public concern about the unresponsiveness or involvement of police in continuing incidents of abuse of women and rape. There has also been a disturbing increase in the number of reports of newly wed wives being burned to death in kitchen accidents. Many of these deaths are believed to be murders perpetrated by husbands dissatisfied with the size of their wives' dowries. Many women are also mutilated or killed by male relatives who suspect them of adultery. Few such cases are seriously investigated, and, owing to the value attached to privacy in this conservative society, the great majority of cases involving abuse within the family are never reported. There are no official statistics on the subject.

The courts have begun to address some of the more extreme violations of women's rights. In July the Lahore High Court, acknowledging offenses committed against women by provincial police, ordered registration of cases against police

responsible for abusing a 10-year-old girl in a local police station. The case has been registered but has not yet come to trial. The court also established procedures to protect the rights of female suspects who are in police custody

While several members of minorities are prominent in public life, reports of discrimination against minority groups in employment and education appear well founded. In the early years of Pakistan's history, minorities were able to rise to the senior ranks of the military and civil service. Today, most complain they are unable to rise above midlevel ranks. The perception of discrimination on ethnic and linguistic grounds is fundamental to the repeated ethnic conflicts in several areas over recent years and most notably in the province of Sindh during 1989. These were but the latest in a long series of conflicts between Sindhis and Mohajirs (Urdu-speaking immigrants from India). Non-Punjabis also resent what they see as domination of the bureaucracy, the police, and armed forces by the majority Punjabis. Officially designated as "non-Muslims," Ahmadis are subject to discrimination and occasional harassment and have limited chances for advancement in the public sector. Young Ahmadis and their parents complain of increasing difficulty in gaining admittance to good colleges. This problem is not unique to Ahmadis, but their resentment is strengthened by their conviction that they too are Muslims.

An aggravating element in all cases of discrimination is the continuing social stratification; socially prominent Pakistanis suffer less at the hands of officials than those less well-off, partly because of their ability to reciprocate favors, and partly because of the general deference still accorded social "betters" in Pakistani society. Although the original caste distinctions common to South Asian societies have no legally binding force, clan affiliations and ethnic identities, which in some ways parallel the old caste system, still help or hinder those seeking education, employment, justice, public services, and public office. Among most minorities, there is a conviction that the authorities, even if they do not persecute them, afford them less protection under the law than Muslim citizens.

Section 6 Worker Rights

a. The Right of Association

The right of industrial workers to form trade unions is protected by the Industrial Relations Ordinance but is subject to major restrictions in some employment areas. In practice, labor laws place significant constraints on the formation of unions and their ability to function effectively. In her first public statements after being named Prime Minister, Benazir Bhutto promised to remove all general bans on labor activity. However, little progress has been made in fulfilling this commitment.

The right of unions to strike in Pakistan is severely constrained by legally required conciliation proceedings and cooling-off periods, and especially by the Government's authority to ban any strike found to cause "serious hardship to the community" or prejudice to the national interest, or in any case after it has continued unresolved for 30 days. Strikes are rare; when they do occur, they are usually illegal and short. There are also periodic work slowdowns on the part of low-ranking government employees. There has been an

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upsurge in the number of small-scale strikes on the part of doctors, nurses, and police inspectors. Police crackdowns on worker demonstrations are fairly common.

Strikes are banned by law in export promotion zones (EPZ), although this has had little impact, since EPZ development has been largely on paper to date.

At present, union members make up only about 6 percent of the industrial labor force and 3 percent of the total estimated work force. Trade unions of all political orientations are permitted, and the political leanings of labor leaders cover the entire spectrum from far left to right.

While most unions remain aloof from party politics, several have associated themselves with political parties. Since the PPP came to power in 1988, it has made a concerted effort through its labor wing, the People's Labor Bureau, to organize trade unions under its banner.

There are no official constraints on Pakistani labor federations' affiliations with international labor organizations, notably the International Confederation of Free Trade Unions and its Communist-controlled rival, the World Federation of Trade Unions.

Pakistan has been criticized for years by International Labor Organization (ILO) committees for its failure to abide by Convention 87 regarding freedom of association and Convention 98 on the Right to Organize and Collective Bargaining, both of which it has ratified. The charges, repeatedly raised by Pakistani trade unions, have focused on the limitations on union formation, strikes, and collective bargaining. No Pakistani government has yet made any serious movement towards changing any of the laws criticized in the ILO reports.

These issues were again reviewed by the ILO's Committee of Experts (COE) in 1989, along with the question of excessive government supervision of trade union funds and the question of worker rights in the export promotion zones. See also Section 6.c.

b. The Right to Organize and Bargain Collectively

Free formation of workers' associations and free election of representatives to act as collective bargaining agents are provided for by law. Current laws, however, place major limitations on the extent and effectiveness of such activities. Large sections of the labor force are excluded from the right to organize and bargain collectively under the Industrial Relations Ordinance. Union activity is prohibited for the 53 percent of Pakistan's labor force employed in agriculture. Under the Essential Services (Maintenance) Act of 1952 (ESA), normal union activities are severely restricted in sectors associated with "the administration of the State," covering a wide range of government services (e.g., education, medical) and state enterprises (e.g., oil and gas production, transport).

For each industry declared subject to the ESA (a finding which must be renewed every 6 months), a specific determination is made by the Government as to what constitutes the limits of union activity. In cases where collective bargaining has been barred, individual wage boards are established to decide wage levels. Disputes are adjudicated before the National

Industrial Relations Commission. A worker's right to quit can also be curtailed under this Act, and a fired worker has no recourse to the labor courts. However, collective bargaining and even strikes are known in some job areas covered by the act (e.g., the nationalized banks). The abolition of the ESA is a major demand of most unions.

The ILO's COE has advised the Government that a 1980 ordinance permitting it to exempt the export processing zones from the provisions of any law is inconsistent with the requirements of ILO Conventions 87 and 98. Export processing zones are not yet functioning, and it is difficult to judge how labor laws will be applied there.

c. Prohibition of Forced or Compulsory Labor

Forced labor is specifically prohibited by Pakistani law. There is no evidence that any form of slavery or bonded labor has received official sanction. However, critics argue that the ESA's limitation on some employees' right to leave their jobs constitutes a form of compulsory labor.

Cases of illegal bonded labor appear to be widespread, with a number of specific cases and the discovery of several forced labor camps reported in 1989. The worst cases tend to come to light only through sensational treatment in the press. Bonded labor is said to be particularly common in the brick, carpet, glass, and fishing industries and extends to agricultural and construction work in rural areas.

In the brick kiln industry, however, a workers' association in 1988 succeeded in bringing the plight of bonded brickmakers in the Punjab before the Supreme Court. In March 1989, the court issued a compromise ruling which reinforced prohibitions on forced labor and forcible collection of debts and limited pay advances to 1 week's wages, while upholding the legality of existing debts. The ruling was the first important gain for bonded workers and laid the groundwork for challenges to bonded labor in other industries. Resistance to the ruling is likely to be strong, however, and reports of violations continue to appear. Moreover, due to the lack of alternatives, many workers have returned to bonded labor.

In response to the publicity surrounding this case, the Government announced its intention to introduce a bill in the current session of the National Assembly to abolish bonded labor with a proposed penalty of 3 years in jail or a $750 fine for offenders. Critics charge that the proposed legislation will be ineffective due to the inadequate penalties and the inability of authorities to enforce the law in the rural areas, where such practices are prevalent.

While it is not clear that the provision of the ESA limiting the rights of some employees to leave their jobs has been invoked, this and other questionable Pakistani legislation have been under the scrutiny of the ILO's COE for a number of years. A government representative informed the ILO's Committee on the Application of Conventions and Recommendations (CACR) in June 1989 that various provisions of Pakistani legislation deemed inconsistent with the requirements of ILO Conventions 29 and 105 on forced labor (both of which have been ratified by Pakistan) have been, or will be, amended. The representative denied the existence of illegal bonded labor in Pakistan. The CACR welcomed the progress being made with respect to legislation, but requested

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more information and expressed "great concern" regarding the Security of Pakistan Act, which permits courts of law to impose sentences of prison labor for the expression of political views.

d. Minimum Age for Employment of Children

Child labor is limited by at least four separate statutes and Article II of the Constitution. These laws present a confusing picture, variously limiting employment in certain fields to those over 14 or 15, and, in one case, permitting factory work by children under 14 (in apparent contradiction of the Constitution) if a government doctor issues a certificate of fitness. None of these regulations is effectively enforced.

Despite legal limitations, child labor is common in Pakistan. While much of it is in the traditional framework of family farming or small business, the abusive employment of children in larger industries and government businesses is widespread. Although there are no reliable official statistics, unofficial surveys and occasional press features suggest that violations of existing laws are common. Unofficial estimates indicate that one-third of Pakistan's total labor force is made up of workers under age 18. The employment of children is occasionally linked with stories of bonded or forced labor and child prostitution.

e. Acceptable Conditions of Work

Labor regulations in Pakistan are governed by federal statutes applicable throughout the country. These provide for, or require the provincial governments to provide for, a legal minimum wage as well as certain worker protection and welfare services. The minimum wage, which for an unskilled worker is roughly $25 per month, is not enough to support even a small family. The law provides for a maximum workweek of 54 hours and paid annual holiday and rest periods during the workday. These regulations apply, however, only to a small minority of the labor force; they specifically do not apply to agricultural workers (roughly one-half of Pakistan's work force), to workers in Pakistan's numerous small factories with fewer than 10 employees, and to the small contract groups of under 10 workers into which factory work forces are increasingly divided.

The enforcement of labor regulations is left to the provincial governments, all of which are largely ineffective in this area. The attention given to enforcement varies among the provinces in proportion to the significance of industrial labor. In all cases, limited resources, corruption, and inadequate regulatory structures hamper the effort.

In general, worker health and safety standards are poor and little is being done to improve them. Organized labor is occasionally able to press for improvements in this area, and some legal protections apply, although they are weakly enforced.